

# The FORUM

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## HOW MUCH LONGER MUST WE FEED EUROPE?

*By* HERBERT HOOVER

THE most evident conclusion to be drawn from the world's adventures in charity is that no aid extended to an individual or a nation, when the recipient is able to effect self-relief, can prove permanently beneficial. Insofar as any charity tends toward pauperism, insofar as any charity breeds a train of new demands, the world would be better off without it.

This thought has been the underlying, stabilizing guide in the conduct of the various relief programs that my American colleagues and I have directed during the past six years. In Belgium the feeding of more than 7,000,000 destitute persons, necessitating credits of more than \$900,000,000, was carried on with simple machinery, at no time requiring the presence within the country of more than fifty Americans and functioning always in such manner as to elicit the services of able and public-spirited men and women throughout the 2600 communes. This system of local committee management, with its motivating impulses of community pride and community obligation, did much more than insure efficiency at the time. It enabled the Com-

mission for Relief in Belgium, as soon as conditions permitted the withdrawal of American aid, to leave behind a cohesive, nationwide network of civic and child welfare committees. The death rate for children in Belgium when we ceased operations there had been brought to a lower figure than at any time before the war, and the Belgian and French personnel of 55,000 was so enthusiastic that our withdrawal caused no cessation.

#### NOT BROADCASTING AMERICAN AID

In all the operations of the European Children's Fund, the same precautions have been taken: first, to supply only vitally necessary and locally unobtainable food; second, to make possible early withdrawal from the field with no consequent let-up of child welfare activity. I have at hand a statement of the personnel and government contributions that will be used in Poland for the child-feeding program during December, 1920, and the figures are illustrative of the extent to which we avoid broadcasting American aid.

Mounting from 700,000 in November, as winter closes down, it is estimated that 900,000 daily child rations will be necessary in Poland during December. This will rise to 1,300,000 in January. The cost per month per child to us is one dollar, so the American Relief Administration European Children's Fund will expend \$900,000 on the December's program. To this will be added 332,000,000 Polish marks; 62,000,000 of which will be furnished locally for operating expenses, 70,000,000 of which will come from local cash gifts and 200,000,000 of which will be allocated to us from the Polish Diet Credit. There will be an American personnel of thirty persons. Sixteen of these will be American Relief Administration officials and fourteen "Gray Samaritans," Polish girls trained in America by the Y. W. C. A. The Polish personnel will consist of 20,359 paid employes, none of whose salaries will be met from our funds, and 7,420 volunteers. These volunteers represent the highest type of Polish citizen. A primary rule of the feeding is that each child must eat its daily free meal on the

premises of one of the 7,000 feeding-stations, and the chief duty of the American personnel is inspection.

#### FUNDS NEAR EXHAUSTION

I hope that this example will make clear the basis on which aid is rendered. We have been able to withdraw from virtually all of Czecho-Slovakia, Rumania and Jugoslavia, leaving, as in Belgium, smoothly operating machines for child-welfare. This time last winter my associates and I believed that the 1920 harvest would virtually relieve America of child-feeding responsibility and would permit us to return to our professions. The Bolshevik invasion of Poland, resulting in a sixty per cent shortage of basic food-stuffs in that country, and the general slowness of economic rehabilitation in Eastern and Central Europe, have since bred suffering on a large scale. Famine conditions will not be as wide-spread as they were two winters ago, when we fed 6,000,000 children a day, but the incredible evils of undernourishment will be visited on at least 3,500,000 children this winter unless American charity continues to be the buffer.

The funds of the American Relief Administration will be exhausted in January, at a time when the need in Poland, for instance, will mount to 1,300,000 rations a day. If civilization means anything, it means a society sufficiently educated in spirit and possessing sufficient mass effectiveness to avert such tragedy as threatens the 3,500,000 helpless products of war who depend upon us for sustenance this winter. Twenty-three million dollars is needed for the task.

We must not, for Europe's sake, feed any portion of Europe beyond the time when it is within the power of local charities and local governments to perform the whole task. But, whether the interval be one winter or two, we cannot as Americans fail, when we are the sole hope, to do our part in the alleviation of a more appalling misery than history has yet recorded.

# THE POST-WAR PSYCHOLOGY OF EUROPE

By CHARLES HENRY MELTZER

**A**MERICANS who left their homes for Europe during the past spring and summer, to visit or re-visit stricken Europe, set sail with many doubts and many qualms. What would the Old World look like when they landed? What welcome would it have for Western travelers?

Much had been written of a certain want of friendliness—of chilling treatment of Americans in various countries. The flames of war might have wrought sweeping changes in the psychology and manners of some nations.

Outside of Italy, however, where a dislike of Mr. Wilson's countrymen was evident, the attitude of Europeans as a rule at worst was tolerant. Unless they bragged about their part in the great Armageddon, Americans in England were received quite cordially. In Belgium they were hailed with more than warmth, and lightened of their wealth with real enthusiasm. In France, perhaps, their greeting was less kind. For France, poor France, had suffered more than all, both in war and in what some called peace.

The Belgians had changed less than other peoples. They had had few strikes, few upheavals, since the Armistice. They were all busy, toiling, sowing, reaping, rebuilding shattered churches and wrecked homesteads. Look where one would, all Belgium seemed at work.

In England, which had lost a million men, and seen its commerce for a time snatched from its grasp, the signs of unrest, chiefly social and political, were plain. But, on the surface, life went on as usual. The social splendors of past seasons in Mayfair had dwindled strangely. The

contrasts between rich and poor were far less harrowing than ten years ago. There seemed, to some of us, if anything, a greater kindliness among all classes. For had they not been taught tremendous lessons by joint sacrifices? Had they not paid their common debt and "done their bits," in every station, high and low and middle?

The newspapers assured one, none the less, that there were conflicts raging, underneath the surface; that Labor was at loggerheads with Capital; that the nation, as a whole, was grumbling savagely, not at the burden of taxation—it would stand that—but at the crimes of profiteers and aggressive unions. By visitors these truths were hardly realized. And to Americans the amazingly high prices charged for clothes and food and, at the big hotels, for rooms, meant very little.

#### ENGLAND GOOD-NATURED BUT RESTLESS

The streets were filled with big, good-natured crowds, more brisk and free and easy than they used to be. The girls one met had lost their ancient shyness. They had developed a new boldness and vivacity. The women dressed as tastelessly as ever. The men had, thanks to discipline, grown smarter. From time to time one passed a "lady bobby." But, by and large, the English seemed the same old English.

Of war few traces could be seen in London. One had to hunt for them in the outlying districts, at Maida Vale, and in the Essex suburbs. In Piccadilly, in the London parks, and in the squares which stretch from Pimlico to Bayswater, the "nuts" and "swells" seemed curiously rare. The opera had lost much of its brilliancy. Yet, on the whole, the Londoners looked friendly and quite cheerful. It was not till one went into the homes of those whom one had known as rich, that one perceived to what hard passes some had come. There were few balls and big receptions in the West End. Few dinners, large or small. And this was due, not to austerity or mourning, but to the stress of

poverty. The newly-rich (we know the type here, too) swept past one in their autos, ostentatiously. Most people, even those once used to luxury, seemed satisfied with taxicabs and busses.

The Londoners were passing through an experience of a double kind. They were being leveled up, and leveled down, together. And the well-born—the “upper classes,” I must say, seemed to adjust themselves more gracefully to the changes in their lives than the “lower classes.”

Of gold one sees but little now in England. I am not sure that I saw any while in London. But there were plenty of good Bank of England notes—chiefly the sovereign and half-sovereign varieties. They passed from hand to hand, unquestioned and undoubted. Next to the Bible, there is nothing half so sacred to most Englishmen as their own bank notes.

The chief sufferers by the war—as here, in England—are not the wealthy or the laboring folk, but the great, intermediate millions (mostly wage-earners), who style themselves with pride the “middle classes.” They have been gouged and robbed by merciless profiteers, and dictated to by labor unions. Two years ago, the worms rebelled at last and began to organize in self-defence. The People’s League and the so-called Middle Classes’ Union were outcomes of this revolt. But, perhaps through lack of efficient leadership, neither of these bodies has so far accomplished much.

The People’s League (at first headed by the garrulous and anti-American Horatio Bottomley, M. P.) has dropped out of sight; and, while in London lately, I learned of dissensions in the Middle Classes’ Union, which might have been and may yet be a barrier against many evils.

To quote Mr. Bottomley, whom I met in Belgium—at Ostend—in August, “the British Middleclass is lacking in initiative. It is content with the old beaten tracks.” It grumbles, as it always did, and more. Indeed, among themselves, the English are all grumbling. But they seem

sure, and I feel sure, that some day, somehow, as usual, they will muddle through their troubles and work out their problems.

And what of France? That is another story.

#### RUDENESS IN FRANCE

All travelers, those especially who had passed through London, must have felt hurt by the strange rudeness and acerbity they found in France this year. But, before judging the French harshly, like the Frankfurters who have replaced the Münsterbergs, should one not pause awhile and think of the deep anguish and the strain they bore, so bravely, so unflinchingly, for nearly five long years of tragedy and horror?

Two million men, the youth and promise of the land, laid down their lives in the world war. God only knows how many more were crippled. The wreckage and the ruin, of themselves, would have excused the harried nerves, the unwonted brusqueness, the discourtesy, so manifest just now in Paris. It shocks one in the French, who had till lately piqued themselves on their civility. It would not shock one in Berlin or Königsberg. But it is due, be sure, to the terrific strain of the great conflict. The Frankfurters (of Harvard) have been trying to persuade those who will read them that the post-war French are aggressive swashbucklers. If they believe this (but they don't) they must be ignorant. Poor France hates nothing more today than war. It is because she is obsessed by the desire to be preserved from war that she refuses to allow her eternal enemy to evade her pledges. Nine-tenths of all the Frenchmen I have met this year seem haunted by the thought that soon or late they will be forced to fight again. If, as the Frankfurters pretend, they were imperialistic, would they have signed the Armistice?

Racked nerves, then, indirectly are the cause of half the rudeness that one notices in Paris. It is not confined

to foreigners, by any means. The Parisians are much rougher than they were with one another also.

They have grown abnormally glum and cranky and suspicious and they find it hard to bear what they regard—perhaps unjustly, perhaps justly—as their desertion since the war by their associates. Two years ago Americans were looked upon in France as heaven-sent friends. Now—well, they are viewed almost with dislike. Not to put too fine a point on it, they are viewed as “quitters.”

Not that Americans need fear to hear such things said. All they will notice is a slight distrust, a want of the old, polished cordiality.

#### CHANGING FRENCH MANNERS

You will see changes, many changes, both in the manners and the ideals of the Parisians. The girls of Paris, even those we call well-bred, have been affected by the laxities of the war. In earlier days it was not thought respectable for girls to walk out unchaperoned. Now they run wild, alone or with their friends. They have adopted what their mothers call *les mœurs américaines*. But they are not accustomed to our free, frank ways. They go too far, and are apt to riot, where our own girls laugh and play.

The men and women jostle one another in the streets and in “Métro” (subway) trains. For the moment they have thrown away the traditions of their race. It may take them years to rid themselves of their new roughnesses in social intercourse. But have no fear. Some day they *will* get rid of them.

Besides the major reasons for their present *état d’âme*, there are minor causes—foremost among them their new paper currency.

All business, of the small quotidian kind, has for the past two years and more been carried on, not with the aid of gold and silver and copper, but with paper.

And such paper.

You step out of your train on your arrival in the “Ville-

Lumière" and tip the porter with a rag which has been handed you by the waiter in your restaurant car. He throws it back at you with a grimace and growls. It seems that you have given him one of the bons which are current only in some northern or western cities. You hire a taxi and, quite innocent of offence, present the driver with a ten franc bank note. You ask him for the change. He jeers and sneers. His eyes light up with rage as if, instead of doing what you can to pay his fare with the only paper really good in France today, you had insulted him.

By this time you are losing your own temper. Whence brawling, noise and other things which fret you. If you are lucky you may have the matter adjusted for you by your hotel-keeper. Or—you may have to calm your taxi man with a huge tip.

You go into a store to buy some envelopes, which cost three francs. When you pay—with, let us say, a five-franc bill—you will be offered two francs change in postage stamps. But if you venture to pay what you owe with stamps, you will not be liked. The storekeeper will insist on getting legal, regular money for his wares. More altercations and unpleasantness. More anguish.

Even in the post-offices you will find lots of trouble, if you omit to have the exact price due for postage in your pocket. In some restaurants, *faute de mieux*, I have had to accept meal tickets as change.

#### INFLATED CURRENCY HARD TO EVADE

A sense of humor is now indispensable to those who would not have their stay in Paris changed from a treat into a painful ordeal. From morning until night you have to wrestle with this question of currency. It bobs up in the streets and in the cafés, in the auto-busses, in the hotels and in the stores. And what you suffer, every man and woman is now suffering in this country.

In the French provinces, through which I have roamed lately, things are more vexing than on the Parisian boule-

wards. For once you have left Paris you rarely see change in the form of the neat paper certificates of the Paris Chamber of Commerce, which are accepted in lieu of silver by the Parisians. You get dirty paper scraps, two inches long, inscribed with the names of this or that municipality, and supposed to be at some vague date redeemable. If you refuse them you will be told it is a case of take or leave it. And when you realize that there is no alternative, you take the rags.

But before leaving any place you may have visited, you will do well to leave those dirty scraps behind you. Not only because nobody in Paris will even look at them, but also, and chiefly, to avoid disease. Those local *bons* are really public menaces. What hands they have passed through, no man could tell. Most of them almost smell of rank humanity, and half at least are sadly patched and tattered.

They range in value from five sous (or cents) up to one franc. And they seem only fit to throw into the ragbag. They are better, I suppose, than shells or stones. But they are horrible and perilous to health.

What has become of all the pretty shining gold pieces we used to spend—the ten and twenty franc coins, stamped with the Gallic cock, the head of Louis-Napoleon, or the symbolic rods? Where are the heavy silver five-franc cartwheels, the two-franc pieces and the francs and half francs? They have vanished, like a dream. There is no trace of them.

As to the gold, most of it is presumably in this country, though some is also in the Bank of France. A fact, which, like the tremendous rise in the value of our dollars over here, exasperates and disturbs the French exceedingly. To French bankers, matters may be quite intelligible. But to French laymen they are only nasty facts. A dollar which once fetched about five francs, now costs seventeen. And why its value should have more than tripled is, to store-keepers and others, a dark mystery. When Americans lay

down the outrageous sums asked here for hats and gems and clothes without even murmuring, the French are puzzled by their equanimity. Then, on reflection, they exclaim, "Ah, yes. We see. The increased cost is wiped out by the exchange—*le change*." And they grow bitter, which perhaps is very natural.

They have grown sour and cranky. But they are not Bolshevik. They hate Bolshevism as they hate the devil, most of them. Yet they are distressed and tortured by their hourly woes; by nothing more than by their wretched currency.

As for their silver, there are experts who declare that all, or nearly all, of it is now in Switzerland. A franc to-day in Berne or in Lausanne is worth roughly three times its marked value. And as a consequence the cost of living in Swiss hotels is now so high that a large number of them have not any guests.

In many ways the French are philosophic. They see their miseries, but they shrink from taking risks by going radical. Nowhere in Europe, except possibly in Belgium and in Norway, could you find any country at this moment less disturbed than France by organized labor. Since the election put a check on crazy Socialism, there have been few big strikes and no alarming clashes between class and class. The C. G. T., or "Confédération Générale du Travail," seems almost rational in its present attitude.

#### THE WORK OF THE UNION CIVIQUE

An important factor in the adjustment of French labor problems may, in the future, as it was in the crisis of last spring, be the sensible organization known as the "Union Civique," or Civic League.

I have been in touch in Paris with the Secretary of this league, M. Bienaym de la Motte, "ex-Chef de Bataillon du Conseil Supérieur de Guerre" and former Commandant at Inter-Allied Headquarters. He has favored me

with much useful information as to the methods and activities of the Union. It is not talked of half as loudly as its British equivalent, The Middle Classes' Union. But it is not, on that account, less powerful. In an unofficial way, it is encouraged if not aided in its work by the French Government. Its temporary headquarters are in a corner of the administrative building, which, before the expulsion of the religious congregations by Jules Ferry, about forty years ago, was the seminary of St. Sulpice.

One of the chief purposes of the league is to train volunteers to replace striking trainmen, gasmen, electricians, motormen, cabmen, telegraph and telephone operators and others in public emergencies. Quietly and discreetly, it has enrolled thousands of recruits, outside the C. G. T.; but not aggressively opposed to it—in principle. Already it has trained a little army which, at a moment's notice, could be counted on. Many, if not most of these volunteers are paid for their services during their apprenticeship. They are taught their jobs. They gain money and experience by their labors.

The funds required for carrying on the work of the French league are raised by subscriptions. The minimum fee required for nominal membership is two francs. Members of various other categories pay larger sums. The league has already organized about ninety provincial branches, of which fifty are prepared for any call. The total membership is not yet very imposing—only at most about a hundred thousand. The league is young. But, like the Spaniard of "La Vie Parisienne" of Offenbach, it will grow. It did rare service at the time of the last strike. And it will do much better work another time. The head of the organization, like M. de la Motte, the Secretary, is a distinguished soldier. But the character of the organization is not militarist or reactionary. The one purpose of the league is to protect society against the excesses of unruly *travailleurs* and the iniquities of ruthless *profiteurs*.

# THE BUILDING CRISIS

By HON. WILLIAM M. CALDER

*[United States Senator from New York]*

WHILE there is some hysteria in regard to the housing problem, there unquestionably is reason for serious concern as to the great scarcity of homes for the people of the country, especially in the large cities. In the City of New York this situation is notably acute, as the population is rapidly increasing owing to immigration and other causes. About two million families throughout the country are in need of homes; there is need for about one million houses, and to build those houses will require an expenditure of about five billion dollars.

There are several causes for this situation, but the principal cause was due to the fact that in 1917-1918 building was practically forbidden by the United States Government. The reason given at that time was, that the labor of the country and the material of the country were needed in war work. While this was doubtless true to a great extent, I believed then and I believe today that the idea was carried too far. At the time I protested against this action, as I held that not only is housing necessary for the people, but by ceasing to build houses, the creation of a permanent taxable property is stopped. I held that less essential industries could be curtailed and that the building industry should be permitted to go on. I entered this protest on the floor of the Senate.

Now, in 1919—the year after the war—there was every reason to believe that building industries would be resumed, but investigations as to the conditions in Boston, Philadelphia, Baltimore, New York, Chicago, and other

large cities in the East and West, show that the building operations in 1919 were only one-tenth of the building operations in 1916, and that, in the first six months of 1920, the building operations were only about one-half of the building operations in 1919, or one-twentieth of the building operations in 1916. Strange as it may seem, in 1919 and 1920 the building of factories, warehouses, garages, etc., at least equaled in extent those building operations during the war period. For illustration: In Boston during the first six months of 1920 as many garages were built as houses.

Another very essential point to be considered in the building problem is the increase in the cost of construction. The cost of building material has increased 150 per cent and the cost of labor has increased 80 per cent over pre-war prices. In 1915 spruce timber was purchasable at \$35 per thousand feet delivered at the building site in Eastern cities. This spring the price was \$80 per thousand feet. In 1915 good hard North River brick, delivered a mile from the water-front, could be bought for \$9 a thousand. Today it sells for \$35 a thousand. In 1915 sand was sold for 75 cents a cubic yard. Now it costs \$2.25. In 1915 the plumbing in the average dwelling house cost \$325. Now it costs \$850. I might go on and name item after item and all of them would show an increase in about the same proportion as those I have enumerated. And, added to the high prices, is the difficulty of obtaining material at all, without regard to the prices one is willing to pay.

#### WHY HOUSES ARE SCARCE

Then, also, among the chief causes for the scarcity of houses we must not fail to accentuate that most vital keystone of all building—money. About the only places where one can now go to get money for a mortgage are the savings banks, the life insurance companies, and the bond and loan associations. In the past less than one-half of the money obtained for mortgages in New York City

was borrowed at these places, the remainder coming from private investors. Today there is difficulty experienced in obtaining mortgage money. The reason is that incomes from mortgage investments are taxed. In place of them the investor may obtain railway bonds, some of which bear 8 per cent interest, and other securities which are non-taxable. The securities of this nontaxable character now amount to \$14,000,000,000, which is an increase of two and one-half times over the amount before the war. They include State, county and municipal securities. The result is, that today it is almost impossible to obtain a real-estate loan on bond and mortgage unless the legal rate is paid and a bonus beside.

With the paramount difficulties—shortage of building material, the high cost of building material, and the lack of money for loan purposes—we are also confronted with the difficulty of getting material moved to the building sites. The shortage of transportation for building materials is so serious that it must be overcome before we can hope to return to normal construction operations. The transportation shortage is caused almost entirely by the shortage of coal in New York, New England and the Northwest. The railroads of the country were returned to their owners early in the spring without any preparation on the part of the Government to meet the needs of the roads; and there had been no planning by anyone to take care of the car or of the coal situation throughout the country. For years it had been the custom to ship coal into New England, northern New York State, and the Northwest in the spring and early summer, thus accumulating a surplus in those parts for winter needs. The release of governmental restriction on coal export occurred at the beginning of the coal movement to New England and the Northwest and allowed the coal to be shipped to those points. Two months were lost last spring before it was realized that these northern parts of the country faced a coal shortage, both in industrial and domestic circles. The

factories and the shops were without fuel to keep the machinery going, and the homes of the people were without fuel to keep them from suffering by the cold.

#### EFFECT OF COAL SHORTAGE

Drastic steps were necessary, and so the Interstate Commerce Commission issued priority orders for the shipment of coal to New York, New England and the Northwest which, it was believed, would relieve those sections of the country. The coal shortage in May, June and July was so acute that in all the eastern parts of the country coal operators failed to deliver more than two-thirds of the requirements of our public utilities and industries with the result that many of them were forced to go into the open market and pay from three to five times the amounts called for at contract prices. Those prices sometimes averaged \$4.50 for bituminous coal at the mines, but the spot prices rose as high as \$20 a ton. Unquestionably coal speculators took advantage of the situation and profiteered in a manner never heard of before.

In the meantime the situation was further complicated by the great increase in the export of coal from this country. In the beginning of 1920 the average yearly exports of bituminous coal from the Atlantic ports totaled about 5,000,000 tons. During recent months the amount of coal exported has greatly increased and now we are exporting at the rate of 25,000,000 tons annually. And this enormous export of coal causes domestic coal to be sold at the mines at spot prices varying from \$10 to \$14 a ton, while in Italy coal is sold as high as \$40 a ton.

In my estimation, this situation has been caused by the neglect of the Railway Administrator to plan ahead for the handling of coal. If the proper steps had been taken in January last and the release of export restriction had been postponed until after the domestic coal had been started to the north and east we should not have had a coal shortage in the spring and summer and we should now have plenty

of coal for our industries and our homes. As it is now, I know that we are seriously hampered in our house building and in all forms of industrial progress by a shortage of coal; and I know that in the City of New York—and I base my knowledge on the statement of Mr. Mann, the chairman of Mayor Hylan's Housing Committee, who is a former tenement house commissioner—that we are going to be short this fall and winter from 100,000 to 120,000 apartments and houses for people to live in, owing to the conditions which I have enumerated.

Now, for every disease there should be a cure. It will not do to merely diagnose a case, but, having located the trouble the remedy should be pointed out. In this particular case, we should understand, first of all, that the whole business of the country is disorganized. These are not normal times. How are we going to get the times back to normal conditions? We must do that gradually and the same methods must be applied to the building difficulties that should be applied to all other constructive and reconstructive problems.

The scarcity of building material is only one of the effects of the several causes I have mentioned. The high cost of building material may be classed in the same category. The first tangible corrective point we then arrive at is the shortage of money for building purposes.

#### THE QUICKEST REMEDY

The quickest way to remedy the evil of the money shortage for mortgage purposes is to completely revise our tax laws. It will undoubtedly be unpopular for me to suggest that we should repeal our excess profit tax, but I am sure if this were done it would bring money into the markets and do more than any other one thing to stabilize prices. Of course there will be objection in some circles that it would relieve the men of large incomes from paying their proportion of the taxes. If this were true I should be one of the first to argue against removing the tax, but as a

matter of fact, men with large incomes are investing their money in tax-exempt securities when they can get them. When they cannot get them they simply add the amount of the tax to the price of the goods they sell and the buyer in reality pays the tax. I am firmly of the opinion that some legislation should be enacted to exempt the income on real-estate mortgages from taxation. My theory is that such action will bring a large volume of money available for mortgage purposes and that the result will be a revival of business operations.

I would further suggest that there be an exemption from taxation for a period of five years of all profits made by builders in the construction of dwelling houses, provided that these profits be invested in the construction of new houses. There is precedent for such action in the shipping bills of Congress, which provide that the profits of American ships engaged in foreign trade shall be exempt from excess profit taxes in the next ten years, provided all these profits be invested in new ships. We are surely as much in need of houses for the people as we are in need of ships for the foreign trade. There will be opposition to these suggestions, of course. It will be said that they savor of Socialism, and that they are intended to foster a special industry. Generally I would sympathize with this argument, but the special emergency of the occasion causes me to favor such a movement. The Government has been responsible for the present building conditions. We must find a way out of them, so it seems to me infinitely better to encourage house building for private individuals than to stop the system. In some parts of London and in other large cities in England a builder who will erect a house is granted by the Government a subsidy of £70 a room; so, if he build a ten-room house he receives, according to the old rate of exchange, \$3,500. I simply mention this to show that the British Government is encouraging the building of homes for the people. We certainly should do something to encourage the building of homes for the people here.

## EMBARGO ON COAL EXPORTS NEEDED

I have pointed out that the shortage in building material is due to the lack of railroad transportation, and that, in its turn, the failure in railroad transportation is due to the fact that while we have not enough coal for our own needs, we are exporting coal in greater quantities than ever before in our history. Now, I hesitate to urge an embargo on our coal exports, but I am convinced that it is to the interest of the American people to curb our coal shipments abroad until it is apparent that our own needs can be supplied without excessive cost to the consumer and until we can spare coal from the communities where coal is now so badly needed.

It was owing to the very stress of the coal situation in this country, that Senator W. W. Edge and myself, both members of the United States Senate Committee on Reconstructing, deemed it advisable in a joint public statement to announce that we should press a bill for the nationalization of the coal industry to the greatest extent possible under the Constitution, unless the price of coal dropped radically and coal-profiteering ceased. We are both opposed to Government ownership and control as political principles, but vast, confessed profiteering in coal has produced a situation calling for drastic reform by the application of quick remedies.

Now, a word in regard to labor. Disclosures recently made as a result of the investigations of the Lockwood Committee of the New York State Legislature make it evident there must be a cleaning out of conditions surrounding the supply of building material and labor in New York. We have seen some evidences of that in our committee and I have called the attention of the Department of Justice to two or three instances that seem most glaring. It has appeared strange to me that for the past year or two when a builder asked for prices for material he always received the same bid from all competitors. The

disclosures thus far brought to light by the Lockwood Committee mostly apply to large and public buildings, but the principle also exerts an influence in the building of dwelling houses. It is a matter that should be rigorously looked into, for if old-time competition can be restored it will be an important factor toward cutting down prices.

We have a big problem before us and we must solve the problem. We can only solve it by all working together. I am firmly of the belief that American interests can be best conserved and extended by conferences and consultations among the heads of our industrial, economic and financial organizations. All chambers of commerce and boards of trade should meet with the railroad men and devise means for the expediting of transportation. All business interests should unite in helping to bring down prices to normal standards. Profiteering must be brought to an end. Labor and Capital must get together—not in name only, but in fact. All graft must stop. Excess coal exportation must stop. And, if all the interests will not come together voluntarily, the Government must take a firm hand and put the United States upon a business basis again.

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## THE OFFERING

By RALPH M. THOMSON

WHAT if snowflakes fall without,  
All of Christmas day:—  
If December's cold winds flout  
Those along the way?

Underneath the mistletoe  
Sits a dainty miss,  
Whose lips, with love aglow, are  
Red enough to kiss!

# WHAT WE MAY EXPECT FROM THE WINNERS

By FREDERICK BOYD STEVENSON

POWER having come to the Republican Party, the full significance of what that power will mean to the party and what it will do for the people can only be made apparent to us as the wisdom, or the unwisdom, of the party unfolds itself when the activities of the New Régime are in process of development. The power has been unreservedly accorded to the party by an overwhelming vote of confidence, never before approached in the history of our national politics—a confidence that has been bestowed, partly because of the faith in the past performances of the party out of power, but largely because of the lack of faith in the performances of the party in power.

The victory comes to the Republican Party, as a party—to no one man. The standard bearer of the party is the standard bearer *solely*; he represents the ideals of the party; to keep the faith, he must shape into material form the ideals; he must substantiate by actualities the pre-election implications of post-election obligations; he must retain the confidence of those who placed his party in power. Probably to many of us it is apparent that a political party should be a great impersonal power. That is what the Republican Party has been when at the height of its success; when it has ceased to be an impersonal power it has failed.

Woodrow Wilson sought to evolve from the Democratic Party a personal power, and, wandering far afield from the traditions of his party and the prerogatives of the people, he sought, *ex-cathedra*, to demand from his nation

a personal power. He dominated his party; he gained his personal power; his party went down to defeat. He could not dominate his nation, and the decision by the people that he could not was made manifest by placing the impersonal power of the nation in the keeping of the Republican Party, which, to maintain the trust, must reflect the power—not of one man, but of many. So, what the victorious may be pleased to designate as a victory, should not be hailed in a spirit of glowing jubilation, but accepted in the serious realization of sober responsibility. The trust must be held sacred, or the party in which the trust has been reposed will pass from power.

Manifestly, then, the average citizen—whatsoever may be his political predilections—will inquire (not idly, but with the same intelligent concern that made the exercise of the franchise so serious): “What may we expect from the winners?”

#### MUST BE A NATIONAL HOUSE-CLEANING

To those who endeavor to categorically consider—item by item—what we *should* expect, there will befall disappointment, if not confusion, for the list of urgent reforms and needful reconstructive measures is so long and the subjects involved are so complicated, that numerous wise councils must be held and many wise conclusions reached before relief may be assured. The new Administration will be confronted with problems in every line of national endeavor and in certain lines of individual activities more or less promoted or restricted by Federal regulation. Since the war the business of the country—what we term “big” business and “little” business—has been battling against disheartening conditions. We have undergone and are still undergoing an unprecedented era of high prices, profiteering, unreasonable and inconoclastic taxation demanded to meet a Federal Budget that has been doubled in recent years, official stupidity, public waste and extravagance, and shameful extortion and fraud. There must be a national

"house cleaning," economically, industrially, and financially; and, it may not be going too far, to insist morally.

Here in the New World we have national uncertainty; over there in the Old World they have national bewilderment and national chaos. A war involving twenty-seven nations, taking \$222,000,000,000 out of the wealth of the world, and causing the death of eight million workers in the world, must, of necessity, cause a crisis in world affairs. Could we escape it; could we hope to escape it; could we in any manner evade the consequences of the calamity that enveloped all civilization? Only the unjust will say we could; but only the partisan will say that our recovery from the effects of it could not have been more speedy and more efficacious; only the partisan will deny that honest and intelligent effort will bring a measure of relief. We may expect the incoming Administration, aided by the advice and counsel of the best intelligence and experience of the country, to bring about this relief. But we must not be impatient. The Augean stable is large, and the miracle of a Hercules cannot be accomplished in a day, but only by long days of careful reconstructive planning and conscientious endeavor.

#### FOREIGN LOAN AND TRADE PROBLEMS

Stimulated by a foreign trade, during and after the war, dwarfing in comparison all our foreign trade of the past, and giving us an enormous credit balance, we brought back to America great numbers of our securities held abroad, and when the holdings of these securities were practically exhausted and our buyers had nothing more to give us, they borrowed from us. The result is that we today have outstanding loans to our Allies amounting to nearly \$9,000,000,000 and, if we aspire to maintain our recent stupendous commercial relations with Europe, placing us in the enviable position of holding the balance of trade of the world, we must continue the foreign loans, despite the fact that the debts of the world now total \$265,-

000,000,000 compared with \$44,000,000,000 at the beginning of the World War, and take our securities in heavy foreign investments. Thus the incoming Administration must solve the foreign trade and the foreign loan problems, for, unless they are solved, there will be no world trade, and a world without international trade is an impossible conception—the end of enlightened civilization in the Old World and the New. Thus we may expect the New Régime to solve these problems through the medium of the financial experts of the country.

While it would be futile to enumerate all the problems which we may expect the New Administration to solve, we should not fail to note one which has a vital bearing on and is closely affiliated with our foreign trade, for it directly deals with our own industrial possibilities. That is the Labor question. The incoming Administration must realize that last year the losses to labor and industry in the United States amounted to nearly two billion dollars, and, realizing it, must take cognizance of the fact that this vast wastage cannot continue without final disaster. We expect, then, from the New Régime that Capital and Labor will be brought together and work together, hand-in-hand. We may expect, then, that in order to make such association compatible with the laws of supply and demand and with the trade necessity of reasonable profit, that Capital, which represents one-half of the \$250,000,000,000 of wealth in the United States, will not be required to bear five-sixths of the taxes of the Federal Government. And we may expect a solution of the immigration problem—that vexatious international query the answer to which has been too long evaded, too long delayed; and we may expect an answer that will protect the United States, and, at the same time, bring needed help to our industrial centers through geographical distribution.

And from what basis will the New Administration work? There is only one epoch in the history of our country that will approximately serve as a precedent to guide it

in its deliberations; that is the period following the Civil War and the years of Reconstruction politically and economically, followed by the trying but triumphant industrial expansion in the North, checked and handicapped by the great financial crisis when President Grant and his Secretary of the Treasury personally visited New York, and discussed the situation with the leading financiers. There was a great impersonal power in those days that brought the nation in safety through its crisis. Grant, anxious to take advice, anxious to be helpful, wisely kept the personal from the impersonal, giving what aid he could from the Government, but abstaining from personal interference.

#### THE LEAGUE QUESTION

So today we may expect from Mr. Harding's Administration a solution of all these national and international problems through the combined wisdom of the men at the various council tables who will represent the impersonal power which seems to be assured to us for the next four years. And none but the heedless would fail to note that there can be no solution of national problems without the solution of international problems. Before the new Administration can hope to adjust the affairs of our own nation, it must help adjust the affairs of the foreign nations. Just how this help to the foreign nations will be formulated remains one of the questions the answer to which will come when Mr. Harding announces the selection of his Secretary of State. Those members of the Republican Party who have pro-League tendencies have aligned themselves behind Mr. Elihu Root, while those who incline to the opposite views favor Senator Philander C. Knox of Pennsylvania or David Jayne Hill of New York. But whatever action is taken in regard to the League of Nations, one point may be regarded as definitely settled: Article X is dead. Article X was the stone wall that divided the personal determination of Wilson from the impersonal determination of a practically united Republican Party.

Since the election President-elect Harding has definitely declared his attitude on the League. He has conclusively stated that the Versailles League of Nations is no more. When he takes his seat in the White House, he says he will "ask for nations associated together in justice, but it will be an association which surrenders nothing of American freedom." He also states that he intends to invite in conference prominent and informed American citizens and advise with them as to the best foreign policy to adopt.

In a word, the plan we may expect from the New Executive and the new legislative administration is based on the principle of an Association of Nations which shall function as a court, not free to act on its own initiative, but in accordance with a codification of international law. No armed power will be given to this court to enforce its decrees, for it is deemed that the moral force behind the court will be enough.

Senator Knox, former Secretary of State in the Cabinet of President Taft and Attorney General in the Cabinet of President McKinley and President Roosevelt, has taken a decided stand on the League of Nations. He holds that Mr. Harding's position is sound in that he recognizes the League Covenant tendered by President Wilson is not safe for America, and, not being safe for America, is therefore not safe for the world. He holds that, in lieu of such Covenant, the energies of the world under the leadership of the United States must be directed to the formation of a true League of Nations under which all international controversies may be judiciously determined and war outlawed and made an international crime. "Meanwhile," he says "our cobelligerents need have no anxiety, for so surely as the sun rises if the Hun flood again threatened to engulf the world, we shall again be found fighting for the right with the same complete accord and co-operation as in the past, all for the defense of civilization."

Senator Knox seems, by far, to have the most definite and rational programme for a genuine League of Nations

that would bring about the chief desideratum: the abolition of war. And with this program of Senator Knox before us and with the known attitude of President-elect Harding, would it be too much to venture that we may expect its adoption by the new Administration next March?

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## CONSOLATION

*By* CLINTON SCOLLARD

**I** SENSE the starry stillnesses of night;  
The stream, inaudible, that swiftly flows  
Beneath its barrier of ice and snows;  
The silence of the pines upon the height;  
I know no radiant vision of delight  
Will greet my eyes like morn's ethereal rose;  
No sheen of green to deck the garden-close,  
Only the sweeping vastitudes of white.

Yet what though on the bough no leaflets stir,  
What though I hear no burden of the bee,  
What though no choir of lyric birds confer,  
These solaces the season brings to me,—  
The consolation of the things that were,  
The consolation of the days to be!

# WHY MEXICO NEEDS OUR HELP

By AGNES C. LAUT

**T**HE Scripture somewhere speaks of a Door of Hope. It is on that door Mexico is now knocking; and it is for this United States—the fairest, squarest, most generous nation in the world—to say whether that Door shall be opened wide, or kept locked against a people plunged in the very depths of despair.

It is shutting one's eyes to facts not to acknowledge that Mexican affairs have reached a crisis. It is talking nonsense to repeat the inane catch-cries of the propagandists that the United States wants to "gobble up Mexico." If the "colossus of the North"—as the breeders of international hate are fond of calling the United States—had wanted to "gobble up Mexico" the giant would have done so in 1848, when it controlled Mexico City. Or it could have done so again three years ago when the German plotters went in to burn the oil wells that supplied the navies of the Allies. If "the financial interests" had wanted to "gobble up Mexico" then all they had to do was to throw up the sponge and withdraw. The Allies would have been compelled to go in then to protect their own fuel supply.

It must be kept clearly in mind that the people who lash up hatred with that catch-cry are the real enemies of Mexico, whether voicing the propaganda in Mexico or in the United States. Whether flattering the Wilson policy "of hands off no matter what," or wooing the Harding policy of "behave yourself if you want American friendship."

Why potter over such puerile efforts to conceal the truth?

It must be realized that Mexico is a country the area

of Germany, France, Italy and part of Spain added. And it has less than fifteen million people!

People who advance such false arguments are either sunk in an abyss of ignorance, or they take for granted that other people's ignorance is abysmal. As a matter of fact there never has been a time in the history of Mexico when there was not more land crying for laborers than there were laborers to cultivate it.

There never has been a time in the history of Mexico when even a small fraction of the arable land was tilled.

Now isn't it true that families like the Creels, and Terrasas, and Amors owned areas of hundreds and thousands of acres of land?

To be sure it is true, though they no longer possess the lands. They have been driven off and the land lies idle. It is also true that when the boom set in to the Canadian Northwest we Canadians sold hundreds of thousands of acres of land to British and American syndicates at from fifty cents to \$15 an acre; and rejoiced thereat. Better have the syndicate and "skindicates" own that and cultivate it and make it produce something besides Russian thistles than have the land lay idle, though these syndicates have frequently resold the land bought at fifty cents to \$15 for from \$30 to \$200 an acre. We were glad they got the land and turned wilderness into a garden and got their profit. Why not? Didn't they deserve it? If they got it by illegal title, as some of them did in the old days through buying "Indian scrip," we didn't "revoloot" our country and drench it in bloodshed and create ten thousand outrages to put one form of wrong right!

#### MEXICO'S IRRITATING LAND PROBLEM

It was on this land question that Madero came to grief. He agitated for agrarian reforms—for the subdivision of big holdings into small ones—till he had the peons thinking all he had to do was wave a magic wand and have apples of gold growing from cactus bushes. Well, he came to power, and dispossessed the old land-owners—loot and out-

rage and murder as usual—and he waved his magic wand; and it didn't work out that way. When the peons found they did not get wages they refused to stay "put." They had got a taste for loot, and loot was easier to get than sustenance from a year's work on land. They were presently both hungry and angry, and down crashed poor Madero. His cardboard hopes hadn't foundation on facts. Villa had the same experience when he subdivided lands in the North. When the peons didn't get wages they would not stay "put." They went back to banditry, or kept only enough land as squatters to support a mule, a cow, a pig. I could take FORUM readers through thousands of acres of abandoned ranch lands in Mexico from which the peons have driven the legal owners and which they, themselves, refuse to cultivate. This statement applies to every State in Mexico but two. The lands are reverting to cactus, though many old and absent owners continue to pay taxes to hold title.

It used to be said that seventeen families owned the entire State of Morelos. What were the facts: In one district alone were five hundred owners of areas from 250 to 2,500 acres. Under the old régime, the Indian was allowed perfect freedom. He could work for wages or rent. The wages were ridiculously low—from twelve cents to thirty-seven cents, United States currency; but wages were criminally low everywhere till the hated foreigner came in and hoisted wages to \$1.50 and \$2.00 a day. The Indian pastured his cattle at the rate of one peso (fifty cents) per head a year. (I charge in New York State on my own farm \$1 to seventy-five cents per head a month.) Houses were poor but they rented at ten cents a year till the gringos came and built better types of houses. Houses in Mexico, it must be remembered, can be built of adobe, good as cement, at the nominal cost of the builder's work.

Or take the land question on the Pacific Slope. Here, too, is more land than there are workers. To be safe from foray the Indians have entrenched themselves on the high,

steep, inaccessible hill lands; but on the level, tropical lands one can travel over hundreds of square miles of fertile, arable areas untilled and unoccupied. Does that look as if foreigners had "hogged" all the land? Does this seem as though the land problems were anything but an excuse for loot, whitewashed by the theorists who never worked land except through a pen point or a telescope from a propagandist office? In one large, fertile area in Oaxaca the holdings averaged 250 acres to a family. Of 120,000 acres in this area, by actual count, less than 1,000 acres were under cultivation. Yet this very area is in a chronic state of semi-starvation because it does not raise enough food for its own needs. Turtle eggs and wild game are all that save this community from death by starvation. In another area on the Pacific Slope, Porfirio Diaz had allowed large holdings to go into private Mexican hands because it had lain uncultivated from time immemorial. In the Revolution they were dispossessed. Today not one-tenth of one per cent is cultivated. An American recently spent a month there. Here is an extract from his letter; and he had no brief to defend either the new or the old régime: "I take my oath that I saw no one do one stroke of work on this land in the month I was there." He was not a land seeker. He was a secret investigator for a bank; and he was there in the planting season.

#### RICHEST FOOD-LANDS IN THE WORLD

Mexico is today importing food and must for ten years, though her lands are the richest food lands in the world with the cheapest overhead in the world and could easily support the combined population of a Germany, a France, and Italy.

Take the question of cereals! Mexico's crop for 1918 totaled slightly over 110 million bushels. At six bushels per head of population, that leaves only 20 million bushels for re-seeding, feeding horses, cattle, chickens. It hardly needs telling that such a surplus means one of two things—

either the people must go short of food and seed, or the meat supply must fail from lack of feed. Both things are happening in Mexico today even with the import doors wide open. In some places, such as San Luis, Vera Cruz, Michoacan, Oaxaca, 90 per cent of the land lies idle quite as much from lack of seed as lack of workmen and fear of bandits; and the people starve. In other places like Morelos and the Mexico Federal district, the people paid the extortionate price and got the food—much or little as the purse would stand, though Alvarado said 8,000 children died in Mexico City every year from want; and teachers have suicided both in Mexico City, Zacatecas and Vera Cruz regions from lack of pay to buy food. The people pay the price and get the food much or little; but the stock of milk and beef animals so depleted, permission has been given by Boards of Health to eat horse flesh.

These things stated openly by the Mexican City press are either facts, or not facts. If they are not facts let us have the truth to disprove them. Up-to-date, there has been no disproof. On the contrary, the proofs are being daily corroborated by leading Mexicans themselves, who are imploring the Mexican Government to face facts.

#### A RUINED RAIL SYSTEM

On Mexico's rail system depends her ability to mobilize troops to control and pacify the country.

Robbing Peter to pay Paul will not help her ruined equipment. At present one main line to the Gulf has had her number of locomotives reduced from thirty in 1918 to nine in 1919, and about seven in December, 1919. These ruined locomotives have been replaced by transferring from other lines other engines; but that depletes other lines; and Mexican lines are in the position at present of stripping dead engines for parts to repair engines that can be still run; but there is an end to that system of repair.

Where is Mexico to get her replacement equipment?

From the United States only. That needs no proving.

Europe cannot supply her own rail needs today. She has naught to spare for Mexico.

Where is the credit to come from to buy that repair equipment?

From the United States

Where is the money to come from to pay for that credit finally?

From trade with the United States.

Suppose, by some miracle, Mexico is permanently pacified.

Suppose, by some miracle, agricultural banks are established to loan small holders capital to begin with. Suppose, by the same miracle, agricultural and technical schools are established to teach the peon how to work land to get the most out of it. Suppose, by the same miracle, new blood, new colonists, new capital be welcomed to Mexico from every quarter of the world just as we welcomed new blood, new colonists, new capital of every nationality to Canada. (We welcomed almost two million foreigners in ten years, though Mexico balks at fifty thousand.)

Mexico is a three-crop-a-year land. It is the area of one-third of Europe. Can you forecast what would happen? Mexico would burst with prosperity and plenty. Mexico would feed, clothe and sustain fifty million people. Yet of her fifteen million people nine millions are almost hungry—close to the hunger line always.

Is the dream an impossible one?

Is the miracle superhuman; or are present conditions only subdevilish?

That is what I meant when I said Mexico is now knocking on the Door of Hope; and it is now for the United States to say whether the Door shall be opened wide, or kept locked against a people plunged in the very depths of despair; and I wish the fuddle brains who are now taking blood money, misleading the United States about facts on Mexico, would go home and say their prayers.

# CONGRESS AND OUR FOREIGN AFFAIRS

By ALBERT H. WASHBURN

*[Professor of Political Science and International Law Dartmouth College]*

**I**N a somewhat famous debate in the House of Representatives, Mr. Calhoun once declared that "Congress cannot make a contract with a foreign nation"—that whatever "concerns our foreign relations, whatever requires the consent of another nation belongs to the treaty power." With the soundness, as a matter of general policy, of this thesis, there will perhaps be little dissent, but viewed as a rule of guidance under our constitutional system it is open to some qualification and revision. As laid down by the great South Carolinian, it is much too latitudinous. That the law-making branch of the government may deal with foreign relations in such a way as to clash with the treaty-making power is no longer, if it ever was, open to serious question. Indeed, Calhoun himself recognized that law and treaty may relate to the same subject, but he insisted that the two powers were never in a strict sense concurrent—in a word, his contention was that "a treaty can never legitimately do that which can be done by law and the converse is also true."

Though far apart in their conclusions as to the scope of the treaty-making power, the premise upon which Calhoun rested in 1816 was basically the same as that enunciated in the House by Gallatin twenty years before, during the debate on the Jay Treaty. Gallatin argued that a law "could not repeal a treaty because a treaty is made with the concurrence of another party—a foreign nation—that has no participation in framing the law." He conceded in the

same breath, by the same process of reasoning—since an act of Congress and a treaty are both the supreme law under our Constitution—that a treaty could not repeal a law. This view was long since shattered by the Supreme Court. It is now the settled rule, concisely stated in one of the numerous Chinese Exclusion cases, that “as Congress may, by statute, abrogate, so far at least as this country is concerned, a treaty previously made by the United States with another nation, so the United States may by treaty supersede a prior act of Congress on the same subject” (185 U. S. 213, 220). It is plain, therefore, that statutes and treaties may operate in the same field. Modern treaties, are, in fact, largely made up of articles defining the reciprocal personal and property rights of nationals in each other’s jurisdiction, or, to put it in the language of the Supreme Court, a treaty may contain “provisions which confer certain rights upon the citizens or subjects of one of the nations residing in the territorial limits of the other, which partake of the nature of municipal law” (112 U. S., 580-598). Municipal legislation is inevitably and constantly dealing, if in more general terms, with these same rights. But a treaty is, in its essence, an international compact. To what extent may a legislative compact exist with a foreign nation? To what extent may it act in the stead of a treaty and function, where for any reason the treaty-making power has failed?

#### SOME OBSTACLES TO “LEGISLATIVE COMPACTS”

It may be admitted, at the outset, that there are certain obvious obstacles in the path of what we may for convenience term a “legislative compact.” The President is the authorized agent to represent the national sovereignty in its intercourse with foreign powers. The executive control of the whole machinery of conventional negotiation is exclusive. The hands of the legislature are effectually tied in this respect. But notwithstanding this handicap, Congress has played no mean rôle in the conduct of foreign affairs. It has on numerous occasions virtually made in-

ternational agreements. To be sure, we must understand in this connection that such agreements only become effective as such by the exercise of analogous power by another party. But neither does a treaty become valid upon being signed and sealed; it must await the sanctions called for by the constitutional usages of the contracting signatories.

But with all its superior facilities for dealing with foreign affairs, there have been times when the treaty-making power was helpless and the legislative weapon alone potent. There is a very early instance of this in our history. The injury inflicted after the Revolution by the British navigation laws was felt acutely and the reaction upon American shipping and commercial interests was most disastrous. Being quite satisfied with her own commercial regulations, Great Britain refused to trade with the United States. Washington made overtures in vain. Finally, on February 14, 1791, he reported to the Senate and House that he had particularly sought to learn from the Court of London "whether they were disposed to enter into arrangements by mutual consent which might fix the commerce between the two nations upon principles of reciprocal advantages," but that he did "not infer any disposition on their part to enter into arrangements merely commercial." He concluded significantly, "I have thought it proper to give you this information, as it might at some time have influence on matters under your consideration." Congress called upon Jefferson, then Secretary of State, to report the nature and extent of the existing commercial privileges and restrictions and to make such recommendations as he should think proper. This report was laid before the House at the end of 1793. Counter-prohibitions, duties and regulations were recommended. "Free commerce and navigation are not to be given in exchange for restrictions and vexations; nor are they likely to produce a relaxation of them." This was the burden of Jefferson's argument. A long debate followed. The report was sharply attacked as a legislative scheme of "retaliating regulations, restrictions and exclusions." Congress was urged to "leave

changes for the present to the course of national treaties."

Madison retorted that after waiting more than four years on the plea that time should be given for negotiations "no treaty of commerce is either in train or in prospect; instead of relaxation in former articles complained of, were several new and aggressive violations of our rights." Congress, nevertheless proceeded cautiously. The Executive was ultimately given power to lay and revoke embargoes while Congress was not in session. But the Jay Treaty presently absorbed attention and legislative regulations of foreign commerce on any extended scale was postponed for another decade. It was left for Jefferson as President to inaugurate definitely the policy recommended by him as Secretary of State.

#### NEUTRAL RIGHTS AND BELLIGERENTS

In furtherance of its embargo policy, Congress on March 1, 1809, passed an act especially aimed at Great Britain and France. Its declared purpose was to interdict all commercial intercourse between these countries and the United States. Under it the President was authorized to proclaim the renewal of intercourse with either country whenever it should cease to violate our neutral commerce. Provision was made for the expiration of the act by time limitation, but a renewed lease of life was given its main features by subsequent legislation.

This particular attempt to force the recognition of neutral rights from belligerents who were locked in mortal combat proved abortive, though for a time the outlook was quite encouraging. Erskine, the British Minister at Washington, gave official assurance that the offending orders in council of 1807 would be withdrawn from the 10th of June, 1809 and Madison issued a proclamation of the renewal of trade relations which he presently had to cancel. The action of the British Minister was repudiated by his home government and he himself was recalled. France's answer was an act of further reprisal. Napoleon

issued his famous decree of Rambouillet on March 23, 1810. It provided for the confiscation of all vessels navigating under the American flag or owned wholly or in part by American citizens and entering the ports of the Empire or its colonies. Champagny, Duke of Cadore, the French Minister of Foreign Relations, in a letter of remonstrance to General Armstrong, our Minister at Paris, in February, 1810, complained bitterly that the Americans ought either to tear to pieces the act of their independence and to become again, as before the Revolution, the subjects of England, or to take effective measures specifically against the British Orders in Council of 1807 and generally against any decree of blockade unless it should be real. In case the United States should enter into a definite engagement to take such measures, he stated that he was authorized to conclude every species of convention tending to renew a treaty of commerce which should provide for all measures to insure the prosperity of American commerce and shipping.

Here was a distinct invitation to resort to the treaty-making power, but our Government did not elect to proceed in this way. The Executive named no negotiators and the State Department entered upon no negotiations. The legislative branch, in other words Congress, did take cognizance of the matter, however, and by the act of May 1, 1810, it was provided that certain sections of the above-mentioned act of 1809 should be revived as to nations refusing or neglecting to modify or revoke their predatory decrees. The State Department lost no time in transmitting a copy of this new law to Paris accompanied by instructions to our representative as to his course in case the French Government should accede "to the overtures contained in the act of Congress." Here was obviously complete co-operation between the Executive and Legislature with respect to a matter of foreign affairs, manifestly from our standpoint of the first importance, which was handled pri-

marily, not by the treaty-making power but by the legislative branch of the government.

There seems to have been a very general acquiescence in this method of procedure. Such criticism as there was, was casual, if not obscure. A member of the House wished, at one stage of the debate, to "leave the Executive and treaty-making powers of our government free and unshackled to enter on negotiation with both these governments under every advantage of success we can give." But his was a voice in the wilderness. Certainly no protest came from the Executive. The attitude of both Jefferson and Madison toward the legislative branch was one of invitation.

#### MEASURES OF REPRISAL

Measures of reprisal which depend upon municipal law for their efficacy must originate with the law-making body, but the thing to be noted here is that, when the controversy reached the stage of negotiation, it was still left with the same agency. Diplomatic documents shedding any light upon the matters in issue were promptly and unreservedly placed before Congress, as the numerous executive messages of the period attest. The direct result of the action taken by Congress was an understanding with France, but not with Great Britain. On August 5, 1810, the Duke of Cadore notified Armstrong that the decrees of Berlin and Milan would cease to have effect after the first of November. President Madison on November 2, issued an official declaration reciting that, by the revocation of the French edicts, the existing legislative restrictions ceased with respect to France and her dependencies and the Treasury Department coincidentally instructed collectors of customs accordingly.

It is true that a year later on November 10, 1811, Joel Barlow, who had meanwhile supplanted Armstrong at Paris, was pleading for a "prompt and effectual execution of the arrangement of the 5th August and the 2d Novem-

ber in the true and liberal spirit in which it was proposed." It is also true that Madison in his annual message of November 5, 1811, while giving Napoleon due credit for the extinction of his decree, spoke in terms of censure of the failure to make reparation for injuries received through the enforcement of these same decrees and commented upon the obstructions to commercial intercourse which were still permitted. These incidents in no wise detract from the fact that a compact or arrangement was recognized to exist, which, on the part of the United States, was of legislative origin. It may be said in passing that dissatisfaction with the understanding put upon treaty provisions by one or the other of the signatories is not novel.

#### OUR COMMERCIAL RELATIONS WITH FOREIGN POWERS

It is a significant fact that our commercial relations with foreign powers rest in no small degree upon a legislative basis. The law of March 3, 1915, is the ancestor of numerous subsequent general laws, which proposed to foreign nations terms of equality and reciprocity in duties upon the tonnage of vessels and the goods they carried, to become effective by Executive proclamation whenever the discriminations of such foreign nations operating to the disadvantage of the United States should be abolished. Under these general laws, some of which are unrepealed and still survive as Section 4228 of the Revised Statutes, discriminating duties of tonnage and impost have been suspended. In 1816, the legislature of Nova Scotia passed an act discriminating against American vessels and also prohibiting, under penalty of seizure and forfeiture of the vessel, the landing of plaster of paris shipped from that Province, at any port or place in the United States eastward of Boston. The measure was apparently aimed to hit Maine, whose inhabitants complained to Congress late in February, 1817. Congress promptly passed a retaliatory countervailing measure. Nova Scotia took the hint and the British Minister at Washington gave official notice

of the repeal of the act whereupon President Monroe proclaimed the suspension of the countervailing statute.

Comparatively recent instances of the exercise of supervision and control over international commercial agreements by Congress are to be found in the Tariff acts of 1890 and 1897. The law of 1890 was assailed as an attempt to delegate legislative and treaty-making power to the President, but the Supreme Court answered in the negative and held the provision drawn in question to be valid.

Here, then, are some instances of the way in which—without the intervention of any treaty, but by means of the legislative act—commercial understandings and agreements have been reached with foreign nations. To be sure, in the cases arising under the tariff acts of 1890 and 1897, the President was an essential factor, but the point is that he acted under the direction of Congress and the resulting international agreements did not flow from the exercise of the treaty-making power.

In the documents submitted to Congress with President Taft's message, upon the subject of the ill-fated Canadian Reciprocity, appears the statement that "it is agreed that the desired tariff changes shall not take the formal shape of a treaty, but that the Governments of the two countries will use their utmost efforts to bring about such changes by *concurrent legislation* at Washington and Ottawa."

#### THE TEXAS PRECEDENT

But the precedent which perhaps puts the greatest strain upon the power of Congress to exercise control over our foreign relations grew out of the acquisition of Texas. Senator Davis declared in a Senate report in 1898 that

"no exercise of power could be more supreme than that under which Texas was annexed to the United States, either as to its scope, or the manner of its annexation or the choice of conditions upon which Congress would merge the sovereignty of an independent republic into the supremacy of the United States."

Tyler submitted a treaty providing for the annexation

of Texas as a *territory* to the Senate on April 22, 1844. On the 13th of May, Benton introduced a resolution reciting in effect that the ratification of the treaty was tantamount to a declaration of war against Mexico, that the power to make war was vested in Congress and was not a function of the treaty-making power. On June 8, the treaty was rejected by a vote of sixteen Senators for ratification and thirty-five Senators against. So far from getting the necessary two-thirds, the friends of the treaty could not even muster one-third of the Senate voting strength. The well-known antipathy of Congress to the President was commonly believed to have been a factor in this crushing defeat. Tyler promptly took up the gage of battle. The treaty thus killed and buried was exhumed and two days later, together with all the documents which had been submitted to the Senate in executive session, was communicated to the House of Representatives. In his message the President said significantly that the power of Congress was "fully competent in some other form of proceeding to accomplish everything that a formal ratification of the treaty could have accomplished" and

"while I have regarded the annexation to be accomplished by treaty as the most suitable form in which it could be effected, should Congress deem it proper to resort to any other expedient compatible with the constitution and likely to accomplish the object, I stand prepared to yield my most prompt and active co-operation."

The hint was not lost on the lower House and the issue was promptly joined. Benton exclaimed:

"The treaty is extinct. The paper which contained it is a blank, as much so as if a chemical process had extracted every word, for the rejection of the Senate is the extinction and annihilation of every word that it contains. A bundle of blank paper is, in the eyes of the constitution, sent to the House of Representatives with a request that they will unconstitutionally insert what the Senate has constitutionally erased, and thus arraign and nullify a co-ordinate branch of the Government."

The joint resolution of March 1, 1845, which finally

passed in the expiring hours of the Tyler Administration, did not definitely annex Texas; it declared the terms on which Congress would admit Texas into the Union as a *State*. The formal act of admission was accomplished by the joint resolution of December 29, 1845, which recited that the people of Texas had "assented to and accepted the proposals, conditions and guarantees" set forth in the resolution of the preceding March. It is true that during the main debate, reliance was placed by some Senators upon that clause in the Constitution providing that new States may be admitted by Congress into the Union and the point was made that Texas was coming in as a *State* and not as a *Territory*.

#### THE CASE OF HAWAII

The distinction sought to be made in 1845 faded away utterly and the fallacy involved became painfully evident in 1898 when we came to Hawaii, which was annexed as a *Territory* and not as a *State*. Here again is the story of an earlier treaty which failed of the necessary two-thirds. The joint resolution of July 7, 1898, which followed the defeat of the treaty, was denounced as "a furtive unconstitutional project" and Hawaii was pictured as a sort of derelict out in the North Pacific waving a flag of distress. Mr. Bacon of Georgia, a minority member of the Committee on Foreign Relations, borrowed for the occasion Mr. Calhoun's argument. The question of annexation, he said, involved

"the feature of negotiation and agreement and whenever you have this, you have the essential characteristics and qualities of a treaty, and whenever you have a treaty you have that which the Constitution says must be done in a particular way and which should not be done in another way."

The advocates of annexation answered that the Government of Hawaii had already signified its consent in a constitutional manner to cede absolutely to the United States all rights of sovereignty and that it was proposed in the

resolution to *accept, ratify* and *confirm* this cession. In this form the resolution was passed.

#### FIELD OF LEGISLATIVE COMPACT

From this rather cursory survey of the precedents, the scope of the compact-making power of Congress with respect to foreign affairs becomes fairly apparent. It is indisputable, for example, that it is competent for the legislature to pass a law which proposes terms to foreign nations. This is our independent act, so far binding upon ourselves alone. The nations to whom the terms are offered may ignore them, or flatly reject them by some affirmative retaliatory act; on the other hand, as has so often happened, the terms may be persuasive and a bargain actually consummated through some reciprocal or alternate action. What Congress really does here is to enact what may be aptly termed a piece of *contingent legislation*. Where the element of agreement enters into our foreign relations Congress alone is powerless to do more. The phrase "legislative compact" is, therefore, strictly one of approximation only.

All this is, of course, quite different from the formal compact brought about through the joint agencies of independent states, which we know as a treaty. The two powers exercised are quite unlike in their nature and form, but the result accomplished may be the same. It is, then, utterly misleading to say that law may not do what is done by treaty. To take a familiar example: equality of tonnage and impost duties may result from reciprocal legislation, or, as is sometimes the case, from a kind of favored nation clause in a treaty. To be sure, a legislative understanding may be revoked by either party at its pleasure, but so may a treaty—usually upon reasonable notice in accordance with its terms. The Constitution indeed recognizes no difference here, for Congress is technically competent to revoke a treaty, just as it may repeal a law.

## AN EXPLODED FALLACY

To say that everything that is municipal in scope belongs exclusively to the legislature, while all foreign matters rest exclusively with the treaty-making authority, is an exploded fallacy, contradicted by numerous express grants in the Constitution, such as the power of Congress to regulate foreign commerce, and refuted by long established practice. Government under our Federal Constitution is a government of grants—either express or implied. The treaty-making authority is found in these few words: “He (the President) shall have power, by and with the advice and consent of the Senate, to make treaties.” That is all. The power under which a treaty of commerce is negotiated—or a treaty acquiring territory—is precisely that under which, for example, a treaty of peace is negotiated. If commercial relations with foreign nations may be regulated by legislative compact, and if foreign territory can be acquired in the same way, it should seem to follow that Congress, which alone has the power to declare war, may terminate it by legislative compact. Indeed it can hardly be questioned but that a simple resolution of repeal of a congressional declaration of war would be binding as municipal law.

The real trouble of the law-making branch of the Government in dealing with foreign nations is not, then, a matter of constitutional incompetence—for the legislature is by no means bankrupt of power in this respect; it grows rather out of certain limitations, which are as inherent as they are obvious. The interchange of views between accredited envoys, which so often precede formal proposals, the elements of secrecy and despatch which the legislature lacks, may easily be indispensable to an international understanding and make recourse to the treaty power absolutely necessary. But within its limitations, Congress has, nevertheless, filled a real gap in the conduct of our foreign affairs.

# SUGGESTIONS FOR TAX REVISION

By OTTO H. KAHN

*[Concluded in this number]*

NOW that the emergency of the war is over, I believe that this subject of Taxation in its entirety should be subjected to unprejudiced and competent critical review. Good intentions are not a sufficient qualification for the task of devising a plan and methods of taxation to balance our vast expenditures. Exact thinking is required, technical capacity, adequate knowledge and the courage not to shrink from unpalatable conclusions. Economics are stubborn things and will not permit themselves to be either disregarded or overridden or dealt with emotionally.

In England a non-political committee was appointed recently by the government to study the effects of the various kinds of taxes which have been in force during the past five years, and to make recommendations to Parliament based upon such study. It seems to me that similar action by Congress would be wise and timely.

A small committee of well-informed men of different callings, approaching their task free from political, social and sectional bias, would not find it a formidable undertaking to evolve a measure which, while fully responsive to the dictates of equity and social justice, would produce no less revenue (if needed) than the taxation now in force, and yet would be less burdensome upon the country, less hampering to enterprise, less inimical to thrift, and far less productive of economic derangements.

It would exceed the bounds of my competence and the limitations of this occasion, were I to attempt to outline a

scheme of taxation to take the place of the existing one. No one man ought to assume to do so. Too many considerations and elements are involved on which no one man is authoritatively informed.

It is a problem for a number of men from different sections of the country and with different affiliations to study with the utmost care and thoroughness and then by comparison of views with one another to clear their own minds and to evolve a comprehensive scheme which shall embody the result thus arrived at.

The whole subject of taxation seems to me to present a situation parallel in many ways to that of currency reform in the years immediately preceding the appointment of the Aldrich Senate Committee. There were then many diversified schemes as to how this problem should be handled and the proponents of the various plans, while generally in accord as to what should be accomplished, were unable to reconcile their differences, and Congress was in doubt how to act.

The authoritative and exhaustive report of the Aldrich Committee practically settled the thing in its essentials. In the same way I believe that the taxation problem should be referred for investigation and report to a small committee composed of Senators, Congressmen and duly qualified non-office holding citizens. It seems to me that in only some such way we shall attain a fiscal program economically sound, socially just and properly balanced.

However, if I should be asked to indicate a few definite suggestions for a program of taxation, I would state the following:

(1) The Excess Profit Tax should be abolished or essentially modified and some other method devised to tax corporate profits. I may mention that I am not opposed to the theory of an Excess Profit Tax. On the contrary, I believe that theory has much to recommend it. But such a tax, even though it were greatly improved—as it can be—over the crude system of ours, is of necessity so complex,

so liable in its effects to impede trade and burden the public, and requires so competent and perfected and steady a machinery of administration, that for practical purposes, it is not, I believe, adapted to and not satisfactorily workable in this country.\*

One of the essentials of wise taxation is simplicity of method. Nothing tends more to create a sullen animosity against fiscal measures, nothing is more apt to cause a man to feel justified in his own conscience to give himself the benefit of any doubt or technical loophole, than to be compelled, in addition to paying heavy taxes, to sit down and grapple with complicated tax forms and intricate schedules or to spend money for the employment of lawyers and accountants to tell him what he has to pay. Furthermore, our Government departments, generally speaking, do not possess a personnel sufficiently expert and highly trained, and, above all, sufficiently permanent, to administer laws of unusual complexity and difficulty.

In contradistinction to the conditions in the leading European countries, Government service in this country is not taken up by many as a permanent career. Too many other opportunities beckon and tempt, the salaries are too low (and to judge from the traditional disposition of Congress, are not likely to be made adequate, at least in the case of the higher officials), the chances for promotion are too uncertain, the opportunities for personal constructive activity too circumscribed, etc.

We must not put a burden beyond its capacity to carry upon the administrative machinery at the Government's disposal, because if the machinery of administering the law breaks down, the law itself breaks down and ultimately falls into ineffectiveness, disfavor and disrepute.

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\* It is true the Excess Profit Tax still continues in England and has, in fact, been re-enacted and increased recently. Generally speaking, I have great respect for the wisdom of England's fiscal policy, but in this instance the cases are not parallel for several reasons, which it would take too long to set forth here. Moreover, the English Excess Profit Tax avoids features which are most objectionable in ours, and, notwithstanding its wiser conception and fairer application than ours, the Excess Profit Tax has produced in England most of the evil effects which have resulted from that tax in our country.

At the same time that the Excess Profit Tax is dealt with, the extreme scale of surtaxes, which actually defeats its own purpose, should be revised downward. The abolition or revision of our generally condemned Excess Profit Tax would not accomplish the purpose in view unless at the same time the extreme rates of individual surtaxes are reduced.

(2) Indeed, to abolish the Excess Profit Tax and leave corporate profits subject only to the existing net profits tax of 10 per cent would not only affront a large body of public opinion as being unduly tender to corporate capital, but would be paralleling the uneven incidence of taxation, which is one of the characteristic errors of the existing revenue measure.

Under the present law, corporations pay no surtaxes and individual businesses pay no excess profit taxes. Roughly speaking, the Excess Profit Tax on corporate earnings may be regarded as the equivalent of the surtaxes on the earnings of individuals engaged in business. And, clearly, there ought to be such an equivalent. It is certainly not the intention of the public or the aim of the law to give an undue advantage to corporate as against individual activity. As near as possible, taxation should be so arranged that corporations and individual business are taxed to equal effect.

The simple and sensible way to deal with the surtaxes would be to admit the undeniable fact that our surtax schedule has proved to be grossly excessive, that by its very extreme it has defeated its purpose and brought about harmful consequences, and to act upon that recognition by moderating that schedule. But I know the political mind is apt to shy from laying hands on the presumably popular structure of huge supertaxes. Personally, I am convinced that in that attitude the political mind is working according to its inveterate habit of underestimating both the integrity and the intelligence of the people. The facts as to the harm and futility of exorbitant rates of taxation are

indisputable and easily explained and demonstrated. The average man and woman are amply capable of grasping them. Yet, political expediency is a factor which cannot be left out of account in the practical consideration of tax-revision. If then, it should be found that the political parties are prepared, as it appears they are, to abolish the Excess Profit Tax but that they have not yet screwed up their courage to reduce the schedule of surtaxes, some other method must be devised to accomplish approximate equalization between corporate and individual business taxation and at the same time measurably to overcome, or, at least, mitigate the damaging effect and uneven incidence of our existing surtax schedule.

An approach to that end might be found in the following suggestion (which, I ought to mention, does not originate with me): Simultaneously with abolishing the Excess Profit Tax, raise the tax on corporate net profits from the existing rate of 10 per cent (except in the case of public service corporations, whose earnings are subject to regulation) to, say, 16 per cent.

Leave the existing surtax schedule untouched for the present, but allow abatements on such part—and such part only—of individual incomes as are saved and invested each year; such abatements to be so calculated as to make the rate of supertaxation on individual income *employed instead of spent*, not materially higher than the rate of taxation on corporate income. Such a measure would incidentally have the merit of penalizing extravagance and encouraging the constructive use of incomes.

I do not mean to say that this would be a finally satisfactory solution. It is a cumbersome and round-about way. It is a compromise merely. The ideal solution would disregard the counsels of supposed or alleged political expediency and be guided solely by the test of knowledge, reason and experience. It would be justified by the results and approved, I feel sure, by the common sense of the people.

At any rate, we must face the fact that to eliminate the

Excess Profit Tax without at the same time revising the schedule of surtaxes, will not only create a lopsided and unfair system, but will bring only partial relief from the evils which have followed in the train of faulty taxation.

The high cost of money, the difficulty of obtaining funds, the driving of capital into tax-exempt securities, the inadequate functioning of the investment market, and the economic disturbances and abnormalities which result from those causes, depend for their remedy not on the abolition of the Excess Profit Tax (eminently and urgently desirable though that is to mitigate other evils), but upon the wise revision of the existing schedule of surtaxes.

(3) The principle of a progressive individual income tax and, correspondingly, of a tax on corporate profits is right, especially from the social point of view, and I am convinced that its relinquishment will not be permitted by public opinion. But it must not be applied ignorantly, intemperately or vindictively. Surtaxes must not be so extreme that they impede production, discourage or prevent normal enterprise, induce a tendency for loading prices with excessive margins of profit, diminish the incentive to thrift, and preclude that accumulation of business and investment funds which is an indispensable prerequisite for material progress and prosperity. And in fixing the scale of surtaxes, account must be taken of the fact that billions of tax-free securities are available, which, under the constitutional limitations of our governmental system, cannot be eliminated, and that the scale of supertaxation must be kept at a level which will not drive capital to the refuge of tax-exempt securities. The point to which supertaxation can go without creating that wholly undesirable and harmful sequence is fairly well established by a comparison of existing values.

In the first two years of the operation of the surtax schedule, the total amount subject to supertaxation from incomes exceeding \$300,000 fell off nearly 60 per cent. That does not mean that incomes fell off during that period, but that

the possessors of large incomes were seeking and finding the cover of tax-exempt securities. Therefore, the generally prevailing impression as to the productivity of our higher supertaxes is a greatly exaggerated one. As far as I can estimate on the basis of the published returns, I believe that if the scale of our supertaxes were so adjusted as not to exceed 22 per cent (i. e., including the normal tax, 30 per cent), the resulting deficiency in revenue which would have to be met by other taxation, would not be materially more than, say, \$325,000,000. It might, in fact be considerably less, because capital which now goes into tax-exempt securities would again be induced to invest in taxable corporate securities and other taxable instrumentalities if the rate of supertaxation were made reasonably moderate. In other words, as the rate of supertaxes is lowered, the aggregate amount of income subject to taxation is likely to be increased.

When it is considered that the single item of the action or non-action by the Government in relation to the last Cuban sugar crop had the effect, directly and indirectly, of increasing the price of sugar to the public by approximately \$1,200,000,000; when it is considered that the single item of the increase of wages to railroad men since 1917 amounts to, roughly, \$1,000,000,000 a year; when it is considered that the high cost of money, which is in great part due to excessive supertaxation, adds hundreds of millions of dollars to the cost of things—when these and many other similar instances are considered, it will be seen that the deficiency to be made good by some other form of taxation in case the supertaxes are reduced, involves but a comparatively moderate readjustment. That such a reduction will in its effects yield returns to the public and the country vastly greater than \$325,000,000, I have no doubt whatever.

(4) Careful investigation should be made of the question whether means should not and could not be found to prevent further issues of tax-exempt securities, or, at least, to limit such exemption, say, for instance, to the normal Federal tax and State taxes. (Of course, the right should remain in the Federal Government to issue, upon Congres-

sional authority, bonds free from all taxes in case of war.)

(5) Much can be said for a small tax on gross sales, or turnover, say one dollar for each hundred dollars. A tax of this nature has recently been enacted in France and to a limited extent in Canada. It has been advocated from certain quarters in England, but has not met with the approbation of the British Treasury and its very competent advisers. My first impression was distinctly in favor of such a tax, but further reflection and investigation have caused me to hold my judgment on this subject in abeyance pending further study. Even leaving aside the social and political aspect, there appear to be certain weighty objections against a gross sales or turnover tax both from the technical and administrative point of view and from that of even-handed justice between differently situated industries, merchants and manufacturers. I have not yet been able to reach a final conviction in my own mind as to the arguments pro and con. My present feeling, which, however, may not represent my final conclusion, is that I do not favor a gross sales or turnover tax, but that I am inclined to advocate a tax on retail sales.

(6) I believe that various minor taxes can be devised or existing taxes of that nature strengthened—failing the enactment of a sales tax—and divers stamp taxes can be imposed—all of which would be highly productive and not accompanied by harmful consequences.

It may be objected that taxes of this nature are finally passed on to the consumer. No doubt, to a large extent, they are. So, in the end, are almost all business taxes and, to a considerable degree, even individual surtaxes.

And the burden on the consumer tends always to be cumulative inasmuch as almost every article before it comes to him passes through several different handlings in the process of being converted from the raw material to the finished article on sale, and each one of those concerned in that process seeks to add to the price a proportionate percentage to cover his taxes, at least in part. Nor, in the great majority of cases, is he justly subject to reproach for doing

so. He is, as a rule, simply acting from necessity because, as I have indicated before, what the excess profit tax as well as the surtaxes absorb, is that essential necessity for the conduct of business—*cash*.

Altogether, I feel certain that the enactment of reasonable instead of obnoxious and oppressive taxes would lead to a lowering of prices all round, through a great reduction in the cumulative percentages with which prices are now "loaded" to meet taxation. Competition would see to that. If, contrary to expectation and precedent, competition should not do so, other agencies are, or can be made available which will see to it.

The fact is, as against all theories and political opportunisms, that there is a limit beyond which direct taxation cannot go without absorbing so large a part of the nation's liquid capital and so draining it away from its normal channels and fructifying activities, as to bring about that hurtful strain and derangement which it has actually brought about both here and in England. The wisdom and necessity of preserving a reasonable balance between direct and indirect taxation stands clearly revealed by the troublous results to all the people which the extreme application of direct taxation has produced in this country and in England and inevitably will produce increasingly and cumulatively the longer it is continued.

To those who would recoil from a tax to which the facile opprobrium of the name "consumption tax" may be attached, I would point out that as "a rose by any other name would smell as sweet," so a tax which, while being productive of large revenue, does in effect tend to diminish the existing burden on the people, is a good tax by whatever name it is called.

(7) Inheritance taxation on a progressive scale has rightly become a definitely established feature of our fiscal program. But such taxation should, it seems to me, *as soon as conditions permit*, be left principally or wholly for the use of the States, which are now hard pressed to find sources of revenue.

It is greatly to be desired that the States develop a salutary and stimulating rivalry along various lines of usefulness for the people in those functions which properly belong to the States, and which can be accomplished by them to better effect and advantage than by the Federal Government. To be enabled to do that, the States should have access to ampler revenues than they now possess or can possess when practically every source of revenue is so largely appropriated by Washington. One of the resources suitably and logically belonging to the States primarily, seems to me to be the inheritance tax.

Incidentally, inheritance taxation should be imposed not according to the value of the estate but according to the size of the distributive shares. Under the present federal system, an estate bequeathed to one descendant is taxed at the same rate as an estate divided among, say, six descendants. That is manifestly unfair and socially undesirable.

(8) Consideration should be given to the question whether there should not be a revision of the theory of taxation in the sense of basing it not merely on income but also on the social use made of income. If a man has an income of, say, \$200,000 whereof he spends \$50,000 for his own and his family's living and other expenses, and saves, i. e., directly or indirectly, uses constructively the remaining \$150,000, he ought to be subject to a lesser tax than the man equally in possession of an income of \$200,000 who spends the whole or larger part of that sum on extravagant living. It seems to me methods could be devised, somewhat on the line suggested above (under "2"), by which a sharply marked distinction is made between such portion of a person's income as is used constructively in savings, investments, or enterprise and such portion as is spent on his scale of living.

(9) Many people are inclined to advocate a differentiation in the rate of taxation as between "earned" and "unearned" incomes—the latter term indicating, generally speaking, income from invested funds as contrasted with wages, salaries, fees and profits from active pursuit of

business. The argument is plausible and in theory just. But I am satisfied that in practice such a differentiation would not work, apart from adding another complication to the already excessively complicated machinery of the income tax. If applied to people with moderate incomes from investments, it would be a great hardship, and it is hard enough for such people to make both ends meet as it is. If applied to large incomes, it would not only be easy to circumvent to a great extent, but it would again enact the vice of our present taxation of penalizing thrift and discouraging investment other than in tax-exempt securities.

The national value of saving, large and small, the importance of affording to it every duly consistent consideration, the necessity of a free flow of investment capital into corporate securities and other business ventures, the harm to the community at large of impending or diverting that fructifying current, cannot be over-emphasized. We may be following a superficially unimpeachable theory in enacting certain measures, but if the result is to deter investment we shall indulge in a most damaging practice.

And, then, what is the point at which, intrinsically, income ceases to be "earned" and becomes "unearned"? Suppose a lawyer *earns* in his practice fifty thousand dollars a year, whereof he spends half and saves and invests the other half. Why should the income from the half which he has saved and invested, instead of spending it on self-indulgence, be considered and treated as "unearned" income?

Suppose a man, directly or through mortgage, invests in houses, for which there is now so urgent a need. Would the rent or interest which he receives be "unearned income," and as such subject to a differentiating tax as against "earned income"? If so, would not the necessary sequence be that capital will be deterred from flowing into building? And if, because of the present imperative need for housing, you were to exempt capital used for that particular purpose from the differentiation against "unearned income," you would have broken through your principle, other exemp-

tions would be claimed and ultimately granted, and then the whole scheme would come to work inequitably and finally would fall to the ground.

The differentiation which, in my opinion, should be made and which it is entirely practicable to make, is not between "earned" and "unearned" income but between the socially advantageous and the socially undesirable use of income, i. e., between thrift and waste.

It is worthy of mention that in England where the practice of discriminating between "earned" and "unearned" incomes was adopted some years ago, not only is the differential so small as to be of little importance, but for practical reasons it has been found necessary to cease the differential altogether just at the point where in theory it ought to be most applicable. That is to say, "earned" and "unearned" incomes are treated differentially in favor of the former up to only 2,500 pounds. Above that amount, "earned" or "unearned" incomes are taxed exactly alike.

## II

In emphasizing, as I have done, the share which our taxation system has had in bringing about the troublous situation that has been for some time and still is confronting us, and in accentuating the element of *immediately effective* relief which would come from the reform of ill-contrived and disserviceable taxation, I am by no means oblivious of the other factors causative of that situation and fully appreciative that every effort should be made, compatible with sound perceptions, to mitigate their present effects and finally to overcome them altogether.

Hard work stimulated by appropriate reward, thrift, self-restraint, teamwork, are household remedies which have by no means lost their virtue. That does not mean that we should not diligently seek and open-mindedly try new remedies which justify hope of relief. But abnormal remedies, especially when too hastily applied and not based upon calm, competent and thorough diagnosis, are rarely effective and frequently dangerous.

In a situation such as the one through which we are now passing, there is always inherent the potentiality of that vicious relationship between cause and effect, which arises from the fact that an abnormal state of affairs tends to produce rashly experimental measures which, in their turn, are apt to create in place of the ills we have "others that we know not of."

The road of recovery from the appalling shock of the war, intensified in its after-effects through faulty treatment by the physicians, i. e., the statesmen in charge, is necessarily slow and hard. I think the more that road is thrown open now to the ordinary travel of human-kind and the more it is freed from bureaucratic impediments and from governmental interference, except for purposes of policing and traffic-regulating, the better it will be.

In the course of these remarks I have suggested the appointment of a committee to study the problem of taxation. I should like to amplify and generalize that suggestion.

One of the main reasons for Germany's remarkable development in the thirty or forty years period preceding the war, is the way she has dealt with the complex and difficult problems of economic, commercial and fiscal policy. She recognized, long since, that such problems cannot be successfully handled in a haphazard way, or in town-meeting fashion, or emotionally; still less should they be made the football of politics. Her practice was to turn such matters over for study and report to those best qualified by experience and training, and thus having obtained dependable advice, to respect it and as a rule in its large outlines to follow it. Of course, that does not mean that the government and the legislature resigned their functions to outsiders. There would be counter arguments, criticism, modifications, sometimes rejection, but in the great majority of cases the broad outlines would be adopted which the consensus of competent opinion after special study had indicated as appropriate and advantageous.

Similarly, Great Britain, for many years, by the appointment of "Royal Commissions," so-called, has employed

with success a method of obtaining "light without heat" in respect of problems as to which the government and the people desired disinterested and competent information and suggestions. Such commissions are composed usually of a certain proportion of legislators to whom are added a greater or lesser number of persons particularly qualified to advise on the subject under review. The bodies thus constituted investigate, hold hearings, ascertain facts, collate views and submit their findings, and, if desired, their recommendations, in public reports. In the great majority of cases, such commissions, though composed of very diversified elements, have arrived at a consensus of opinion in the main.

It should seem that it would serve the public advantage if a similar method of procedure were to be made customary in this country, especially in view of the novel problems of an economic, social and financial character which have arisen directly or indirectly from the war.

The President, the heads of the Executive Departments, and Congress are vastly overworked. It is simply inconceivable that these instrumentalities of administration and legislation can give the necessary time and thoroughness of study to the variety of complex questions which call and will increasingly call for consideration and action. The burden which both the Senate and the House place upon their members in the investigating and gathering of facts and the hearing of witnesses, is exceedingly heavy.

A very large portion of the time and energies of our legislators are absorbed in these functions. With the best intentions and the most conscientious application, it is not possible for Senators and Congressmen to do that kind of work to best advantage.

Moreover, experience has proved that Congressional Committees cannot give to the task that continuous and concentrated attention which it requires. They are bound to find themselves subject to frequent interruptions by the call of other duties and compelled to squeeze their hearings and deliberations into odd moments, so to speak, as time

and their other occupations permit. The attendance of members is necessarily sporadic, it being the rule rather than the exception that only a fraction of the membership—often merely a minority, sometimes only the chairmen—are present at the hearings. Consequently, the conclusions of such committees, as a rule, hardly represent that matured and competently and thoroughly informed *collective* judgment which it is the purpose of committee investigation to secure. The result of it all is that reports thus arrived at have neither the helpfulness nor the exhaustiveness, conclusiveness and authority which ought to be theirs.

It is instructive to compare our average Congressional report with like reports of British Royal Commissions. While numerous reports of the latter kind have become standard works on the subjects with which they deal and are referred to many years after as authoritative sources of information, I know of no report by a Congressional Committee within this generation (except the Aldrich Report on Currency Reform) that has attained a similar standing.

Much relief could be obtained by our legislators and very advantageous results accomplished if part of the burden of holding hearings, gathering views and investigating economic and other non-political subjects were placed upon the shoulders of others—non-office holding citizens acting in conjunction with Senators and Congressmen. The best ability and ripest experience of the country could be called upon and would surely be found ready to serve. It should come to be looked upon as a distinguished honor to be asked by Congress to act as one of its instrumentalities, and the resulting sense of responsibility and of public duty and trust should—and I have no doubt would—cause those thus selected and honored to give service wholly free from the bias of self-interest. Such committees might be composed of say five non-office holding members and six or seven Senators and Congressmen. A great part of the work could be done without necessitating the continuing attendance of the legislative members.

The reports emanating from the deliberations of the committee would, it may be hoped, come to be regarded as sources of reliable information to the public on social and economic subjects, and if the committees are wisely selected and rightly conceive their functions, their conclusions would surely come to have the public's confidence for impartiality and competency, irrespective of party affiliations.

They ought also to make it easier for the political parties to have the courage of facing squarely and dealing without too much zigzagging and compromising, with questions of a non-political nature, because the parties could point to the backing of the reasoned judgment of particularly expert and trustworthy men without political axes to grind.

An incidental advantage of considerable value would be thus to bring together representative men of different callings and from different sections of the country in conference and exchange of views with each other and with Senators and Congressmen.

One of the handicaps of our political arrangements—a more serious one, I believe, than is generally recognized—is the fact that our capital is not, as are the other principal capitals of the world, a great commercial city, but is located, figuratively speaking, on a backwater, away from the fast-flowing currents of commerce and industry and their attendant activities. It is a city largely of functionaries, politicians, ex-officials and office-seekers, heavy with the atmosphere of politics, peculiar in the subtle influence of its spirit upon those who come within its orbit, and pervaded, as no other capital I know, with the flavor of things governmental. It may be hoped that the intercourse which would flow out of the measure I have suggested would go a certain length toward mitigating the effects of the “insularity” of Washington.

It is part of my suggestion that such commissions should be selected and appointed not by the Executive but by Congress acting through the President of the Senate and the Speaker of the House, or in some other suitable way. Ex-

perience has shown that the findings of commissions appointed by the Executive, whether Federal or State, have rarely been of great influence with the legislatures and are apt to meet on the part of their members with a certain degree of prejudice or even antagonism. I should be hopeful that commissions designated and directed by Congress and containing a proportion of Senators and Congressmen, would prove more effective and that their views and recommendations would receive a more propitious reception. The decision and responsibility as to legislation would, of course, rest no less than now with the Congress and the President.

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This country is an immense estate, the most bountifully endowed probably of any estate in the world. It is our national task to administer that estate with a degree of care, economy, forethought and effectiveness measurably approaching at least that with which a man would administer his private estate. Our foundations are stronger than those of any other country, but it remains none the less necessary that the right plans, methods and means be used to rear the super-structure.

For over half a century in this country our path has been a relatively easy one to travel as compared to that of European nations. Since the Civil War we have not had any vitally grave problem to tackle. Pretty nearly all we had to do was to attend with due diligence, energy and enterprise to our own affairs, each one of us, and the sun and rain and the soil, the workings of our matchless Constitution, the inherited things which are ours, did most of the rest.

Now as the result mainly of the vast and unprecedented upheaval of the late war, we find ourselves face to face with new situations and new questions. Grave and immediate problems confront us. I have no fear of them. I have no doubt that we shall solve them, but they do challenge

our wisdom, our self-restraint and our capacity for purposeful united action.

They do challenge, too, our capacity for government. The functions of the Government, the administration of the Government, have come to touch much more than formerly not only our business activities, but our daily lives. No doubt the tide of governmental activity will recede, not only from the point it reached during the war, but from the point at which it still is—but nevertheless Government is bound to have in the future a wider scope than in the past. It will, rightly, concern itself with, and intercede in, matters which formerly were considered as lying outside of its sphere and as having to be left for settlement to the sheer clash of economic or social forces. And, as in domestic affairs, so we shall have to meet it to a greatly enhanced extent in world affairs; we shall have to match our governmental capacity against that of foreign nations bent to promote their trade.

All that means that the problems of government have become more complex and far-reaching, the task of government more difficult, the effect of governmental efficiency or inefficiency more directly and seriously a factor for good or ill to all of us, whatever our station or occupation. Such being the case, it follows that government, more than heretofore, must be looked upon as the concern of every one and that it is not only the civic duty, but the self-interest of all of us to turn in and help toward making our governmental processes sound and wise and helpful. To stand outside the ring and criticise and complain is neither a sufficient nor an effective contribution toward good government. Those of us who are not in active political life must be willing to give part of our time, thought, knowledge and capacity to the affairs of Government, both as to legislation and administration. And, by the same token, those in charge of our political affairs, both executive and legislative, should be and, I feel sure, will be ready more than in the past to avail themselves of the co-operation of well-

intentioned and informed non-office holding citizens.

We are about to enter a period of searching and testing, big with portents for the world's weal or woe. There are real grievances to redress with broad and wise planning; there are fancied grievances to meet with good tempered and patient explanation; there are apparent grievances which are inherent in the very make-up of humankind and the immutable laws of nature. Let us reason together. Let all be welcome and be heard who come to the common counsel with sincere purpose and as loyal Americans. Let us seek sincerely and fairly to work together, with all the intelligence we can command, with breadth of vision, sympathetic understanding, and respect for differing view-points, with justice and good will to all. Let us resolve and unitedly strive to make fruitful, materially and spiritually, for the good of ourselves and of all the world, the boundless opportunities which the favor of Providence has vouchsafed to this our land.

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## THE GUARDIANS THREE

By OSCAR WILLIAMS

THE silence and the darkness and the sea . . .  
 These are the guardians of the secret truth;  
 Love cries a little in the breast of youth;  
 Lips laugh a little; all the things that be,  
 All sounds and colors move eternally  
 Bound by one chain of hours beneath the sky;  
 Dreams throng; the streets are filled; strange foot-falls die  
 Down hushed blue halls of the phantasmal three.

Beauty shall linger awhile in this world of men;—  
 Black rock poised on blue sky exquisitely;  
 A sunset flaming crimson through the trees;  
 And where the billows sound their monodies  
 A hand appears, a dumb white cry, and then,  
 The silence and the darkness and the sea . . .

# BETTER TREATMENT FOR THE IMMIGRANT

By COLEMAN DUPONT

*[Chairman of The Inter-racial Council]*

**T**HOSE opposed to immigration and those who believe that immigration is necessary to our prosperity and our national development are agreed upon one fundamental proposition, namely, that it is our duty to assimilate the aliens now in this country.

But there are some persons who believe that our capacity to assimilate has long since been overtaxed and that the races now pouring into America are bound to form congeries on the surface of what we are pleased to call our crucible. Those who entertain this pessimistic view maintain that immigration is a menace and that the movement of European peoples to this country should be stopped either indefinitely or for a period of several years.

It will be recalled that it was upon similar grounds that the citizens of Boston opposed the proposition of Thomas Jefferson for the purchase of the vast territory west of the Mississippi, known as Louisiana. They insisted that New England was in no position to assimilate that vast territory and that, in all likelihood, Louisiana would assimilate New England.

It would appear, therefore, that doubt of America's ability to assimilate is not a new development. Had the "council of cowardice" been permitted to sway the policy of the nation in 1803, the progress of this country would have been restricted to a pedestrian gait, and expansion beyond the boundaries of Atlantic seaboard States would have been delayed.

As long ago as fifteen or twenty years America's ability to unite the immigrant in its population was questioned. We were told then, as we are told now, that the United States had reached the saturation point as regards the density of population. Then, as now, some persons were apprehensive lest America become "foreignized." Tables showing the ratio of the foreign born to the native born were produced and comparative statistics on the birth rate among alien peoples and among our native stock were frequently cited by economists who feared our native civilization and culture would be wiped out through continued immigration.

Yet it is evident to everyone that the original strata has not been covered by the succeeding layers of people from Europe. Any metamorphosis that has taken place has been on the side of the alien, not the native born. True, with the first generation of immigrants the process has been slow. That has been due to our failure to take adequate steps to assimilate the newcomers. With the second generation, the process has been as rapid as nature permits. Between our native born children of native born parents and the American born children of foreign born parents there is little ethnic difference. I maintain the children of foreign born parents are as good Americans and as important a part of our population as are the children who can claim many generations of American born ancestors.

#### SIGNIFICANCE OF RACIAL SEGREGATION

The racial communities throughout the United States are pointed to as evidence of the non-assimilable character of our immigration. These communities are not the product of the Twentieth Century. Racial segregation in America existed in pre-Revolutionary days when the Dutch lived in New Amsterdam, the Puritans in New England, the French in New France, the Germans in Pennsylvania, the Swedish along the Delaware, the Scotch Highlander and Huguenot in the Carolinas.

The desire of our early immigrants to live with their kinspeople served a very helpful purpose in the Colonial

days and at the time that the "White Man's" civilization was being pushed west of the Mississippi. The early immigrants who became pioneers to the West attracted many of their kinspeople to that part of the country. Had the early immigrant been less gregarious the population and development of the West might not have been so rapid. I am not upholding the principle of racial segregation, but merely pointing out that foreign born communities did not originate with the immigrant of the nineteenth or twentieth century. These communities exist today because of our neglect of the past.

Our neglect of the immigrant dates back one hundred years. In the first place, our attitude always has been one of indifference toward the immigrant. We have had no domestic policy on assimilation. Anti-alien laws by States and cities, alien-baiting by the press, by landlords and labor unions, neglect to provide facilities for educating the non-English speaking immigrants, exploitation, maladjustment in industries and mines—those things are partly responsible for the segregation of the immigrants into thirty odd foreign language "republics" that include thousands of racial communities.

Our indifference toward the immigrant is exemplified by the failure of our business men to attempt to sell American products to the foreign born. The existence of a great potential market among the immigrants in this country has been practically ignored by them, despite the fact that American products may play a part in the Americanization of the alien. Seven-tenths of the advertising in foreign language newspapers published in this country relates to non-American products, according to the American Association of Foreign Language Newspapers.

#### WE SHOULD BE ASHAMED

From the moment of his arrival the immigrant is virtually an object of contempt. Our treatment of the new-comer is something of which we may well be ashamed. We find among us persons of immigrant descent urging that our

doors be closed to immigrants. We laugh at their folk-lore or their traditions. Like the Puritans of old who threw the holly wreaths out of the churches and abolished the May Pole because they smacked of heathen days, we will not tolerate anything that harks back to the old traditions of the Old World. Because the immigrant is uneducated or uncouth, we permit him to become the victim of exploitation and persecution. We should not think of permitting a visiting nobleman to be so treated. Yet we take pride in telling the world that we are a democratic people who believe that all men are created equal and are endowed with equal rights.

We state these things in our Declaration of Independence and pass laws in our legislatures denying the immigrants the privileges that others enjoy. The immigrant *does not* have equal rights. In Nebraska he is not allowed to attend a meeting of his own people, unless for religious purposes. In Pennsylvania, if his children own a dog, he must shoot it or otherwise get rid of it. In Michigan, New Hampshire, Tennessee and Washington he is not permitted to teach, no matter how well he speaks and writes English. In Wyoming he is forbidden to be a guide in the mountains. In Pennsylvania, Illinois, New Jersey, California, Arizona, Rhode Island, Idaho, New Mexico and Wyoming he may not secure a job on public works. In Georgia and in New York City he may not be a peddler. In Virginia he may not be a junk dealer. In Florida, Virginia, Texas, Washington and Ohio he may not sell fish or oysters.

#### FOREIGN-BORN WORKERS A NECESSITY

The humor of the situation is that we have reached a stage when this country cannot get along with its foreign-born workers. It may jolt many of us to learn that our population might go hungry and might freeze to death in winter for lack of fuel, if our foreign-born workmen were to leave America. Immigrant workmen are baking half the bread in America, refining half the sugar, packing three-quarters of the meat, making half the shoes, mining three-quarters of the coal and manufacturing three-quarters of the steel. Our native-born workmen do not realize that,

without immigrants for our unskilled grades of work, there would be little work available for the skilled American workers.

If ever the importance of the immigrant to American industry was doubted, all doubt has been removed by the experiences of the past twelve months when the mines, mills and factories found themselves short handed because of the exodus of the foreign born. During the war there was no immigration, and following the armistice, until last May, immigration was of very small volume. The need for unskilled immigrant labor in industry has even now not been met, nor is the demand likely to be met during the next twelve months, since the present inflow includes an unusually large number of women, children and old men and since the races that now predominate do not normally provide unskilled male workers.

This discussion, however, is not concerned with the need in industry for unskilled workers. That need is mentioned in order to emphasize the importance of the immigrant to industrial expansion and to show how industry is vitally concerned with the stabilization and assimilation of our immigration and with so fundamental a thing as our attitude toward the immigrant on his arrival.

The time has come when we must take a deciding step one way or the other. If we don't want immigration, let us say so and be done with it, realizing that we must give up all thought of manufacturing for export. Perhaps by inducing some of our skilled workers to go in for unskilled grades of work we may strike an industrial manpower balance and be able to meet our own needs. Let the other countries provide the machinery that the rest of the world requires! Let England, Italy and France provide the automobiles that will replace the jinrikshas of China during the next score of years!

RECEIVE THE IMMIGRANT WITH A SMILE

If we decide that we *do* want immigration, then let us

abandon our present negative policy! Let us begin by changing our attitude toward the immigrant on arrival, receiving him with a smile instead of a scowl! Next we might offer him a little protection, if not for altruistic purposes, then for the selfish purpose of building up a national reputation that will attract the best immigrants. Commercial concerns spend millions in good will advertising. Why not cater to the good will of Europe through friendliness toward European immigrants? If European countries are sending agents to all parts of the world to discover where the best opportunities exist for intending emigrants, then let us dispatch agents to the various countries of Europe and select the best types of immigrants—those immigrants best adapted to our needs and those most assimilable!

To make certain that an immigrant is admissible when he arrives here we might have our embassies and consulates investigate certificates of intending immigrants. It is a hardship for immigrants to be detained at Ellis Island or other immigration stations for long periods before being admitted. It is a still greater hardship to be sent back after making the journey across and spending a week or two weeks at Ellis Island. The immigrant pays enough money into the coffers of the United States Government to warrant steps to lighten his burden. Eight dollars head tax and ten dollars for passport make a total of eighteen dollars which every immigrant has to pay. Multiply that amount by one million and we have eighteen million dollars.

Having taken steps such as suggested above, it might be well to take up the problems of distribution, assimilation, stabilization and naturalization of the immigrant.

Many immigrants who come here have not had educational opportunities in the lands of their birth. Their knowledge of American institutions has been gained from the letters sent home by their kinspeople in the United States. On their arrival in this country they do not re-

## *BETTER TREATMENT FOR IMMIGRANTS 447*

ceive information concerning the country and its ideals. Few provisions are made systematically for connecting them with opportunities and contacts in their new home. Our government, Federal, State and municipal, has not recognized the necessity of taking affirmative action that will make it possible to incorporate the thrift, the devotion and the steadfastness of the immigrant into our national life. We leave everything to the immigrant. He must shift for himself with respect to employment. He must learn for himself the conditions of naturalization. He must ferret out the information about American institutions. Yet, if he has not returned to his homeland after several years spent in the United States, we wonder why he has not taken out citizenship papers.

### PRACTICAL STEPS FOR ASSIMILATION

A conference held in New York under the auspices of The Inter-racial Council, some months ago, proposed what I consider to be the most practical steps for the assimilation of immigrants. The conference proposed the creation of a Federal Board of Assimilation, charged with the duty of co-ordinating all existing governmental activities relating to immigration. It suggested that the proposed federal board facilitate the distribution of immigrants to their destination, supply the immigrants with information about jobs, afford opportunities for instruction in the English language and in the history, customs and institutions of the United States and provide protection against exploitation.

Measures in the interest of stabilization of immigrants, including laws to protect their savings and steps to encourage them to establish their homes permanently in this country were also suggested. Better machinery for granting naturalization was recommended.

Above and beyond all of the measures that have been suggested in the interest of the immigrant and his adjustment to conditions in America, I desire to emphasize the need for a proper reception. We must create the feeling

that the immigrant who comes here to toil is welcome. Existing racial antagonism must be wiped out.

It was for the purpose of eliminating these antagonisms, of developing increasing good will toward the immigrant and a better understanding of America and American institutions among the foreign born that The Inter-racial Council was formed a little more than a year ago. The Council, composed of more than twelve hundred of the leading industrial establishments and thirty-two racial conference groups, is urging everywhere in America the need for a more wholesome friendliness toward immigrants and more positive steps in the interest of their assimilation.

We cannot expect an immigrant to become a good American citizen if it is impressed upon him every day that he is an outsider and that the country has no interest in him. The immigrant must feel that he is protected. He must be inspired with confidence in our form of government and in our institutions. He must be attracted to citizenship; for citizenship, if it is to mean anything, must be sought after, not thrust upon the immigrant. The immigrant is keen enough to understand that our attitude toward him is cold and that we are holding aloof. When that attitude is changed and when our government takes positive steps in his behalf, assimilation will cease to be a problem.

# RECONSTRUCTION OF TRANSPORTATION

By ALFRED P. THOM

*[General Counsel Association of Railway Executives]*

GOVERNMENT by democracy has its tragedies as well as its triumphs. Its triumphs are for the most part in the realm of human liberty. Its tragedies are generally in the field of business and economics.

In popular government the popular will, right or wrong, must, within the limits of the Constitution, be supreme. It is easy for it to be temporarily mistaken in matters relating to business or property. Jealousy of liberty creates distrust of power and prepares a soil which, under the interested and industrious husbandry of the designing demagogue, can readily be made productive of class misunderstandings and animosities. It is difficult to establish and preserve a just balance of judgment and of political action in dealing with matters of property.

This is especially difficult in respect to the facilities of transportation, which in order to be useful, must, in a sense, be powerful, and must touch the individual in all his social and business activities.

In the creation and development of these great agencies of transportation, human nature and financial ambition have in the past, as was inevitable, played a large part. At the beginning, the public were dazzled by the advantage promised and the increased opportunities offered by the steam engine and the railroad, as compared with the slow and inefficient agencies of transportation then in use. In every community there was a demand for railroads.

It was only a question of getting them, not of the terms on which they could be secured.

Under these circumstances, investors entered the railroad field and came to look upon the properties which their means and enterprise had created as private property, subject to no limitation or qualification that did not apply to other private property.

All this was well enough so long as the public anxiety to obtain this improved method of transportation was greater than the need to consider the terms on which it was furnished, or to reckon with competitive conditions as controlling the question of commercial success or failure.

#### EQUALITY OF TREATMENT DEMANDED

But when the existence of the facilities was in the public mind assured, the tremendous power over the destinies of men and of localities possessed by those who controlled transportation, became apparent, and the demand became insistent for equality of treatment of all users of transportation and for the eradication of the entire system of favors and discriminations which had grown up and which had assumed formidable proportions.

This demand, seeking a legal basis, found it in the conception that property devoted to a use in which the entire public has a vital interest and so related to every social and business activity as practically to direct and control them, must not be accorded an unqualified freedom of use which might be employed to the detriment and oppression of the public, and, consequently, to the extent of the public interest, must be subject to reasonable governmental control and regulation.

As may be easily imagined, this qualification on the right of private property was fiercely resented by those who had been encouraged to invest in this class of property and had been encouraged to believe that they owned and could use it for their own private advantage without any qualifications except those applicable to all classes of property.

The struggle was long continued and full of bitterness, but ended, as was right, in the acceptance of the view insisted on by those who contended for a power of reasonable regulation by public authority of property devoted to this public use, and so intimately and influentially related to the public welfare.

Unfortunately, however, this victory, won in bitterness and anger, left in the public mind a spirit of resentment and distrust towards the antagonists they had vanquished, and the system of regulation which was adopted reflected this resentment in providing only for restraint, and in omitting entirely the provisions which would have been wise and appropriate for protecting and developing this essential agency of commerce and intercourse.

The public was right in its purposes, but, in the hour of its victory and for more than a generation thereafter, it failed to realize the wise limitations it must voluntarily put upon its own power.

No business can permanently survive and prosper under the continued and unrelenting hostility of the public.

### AN ECONOMIC TRAGEDY

Under punitive and restrictive governmental policy of regulation, the owners of these properties and the business public saw this great transportation giant carried bound and helpless before legislative and regulating bodies everywhere, and laid upon the operating table. The diagnosis was that the patient was possessed of a demon which must be exorcised. Those called to perform the operation were not trained experts charged with the duty and responsibility of restoring the patient to health and strength. Instead of a calm and scientific search for the truth, every ambitious experimenter, totally irrespective of his knowledge of his ignorance of economic laws and conditions, of his interested or disinterested attitude to the subject and of his lack of responsibility for the success of transportation, was invited and permitted to participate in the capital operation.

The result was inevitable. Under such an immoderate and ill-considered exercise of public power, new investment in railroads became hesitant, the building of new lines practically ceased, and the efficiency and capacity of those already in existence were in many and important respects poorly maintained and inadequate. The transportation of the nation was threatened, because of the hostile attitude and hostile policies of Government.

During the last three years, the number of miles abandoned has been greater than the number of miles constructed. The number of locomotives and freight cars added during the two years and two months of Federal control were barely sufficient to replace the number ordinarily retired in a single year, and complaint was made that there were one hundred and fifty million bushels of wheat still on the farms or in the country elevators; that live stock had fattened, become over-matured and had declined in value because there was no way to market; that the distribution of coal was inadequate to the extent of threatening national suffering and disaster; that lumber was not moving to market; that mills and other industries were halting in production and were shutting down for want of transportation, and that highway road building had virtually stopped.

This condition of transportation constitutes one of the economic tragedies of history.

#### CANNOT FOOL PEOPLE ALL THE TIME

But the hope of democracy is the fact that the people cannot be mistaken or deceived all the time, and that in heart and purpose they are fundamentally sound. When they realize that they have been acting on false premises and have been misled, they throw aside their false leaders and demand that the mistakes which have been made shall be corrected.

No more notable instance can be found of this than the recent change which has taken place in the attitude of

the public towards the instrumentalities of transportation. This change is reflected in the Transportation Act which became a law on the 28th day of February, 1920.

The awakening of the country to the truth had to come in the travail and hardship of adversity. The strain of the war came, and productive industry found itself slowed up and hampered by the limited capacity of transportation instrumentalities which had been held back and held down by the restrictive and unsympathetic policies of governmental regulation.

The public then began to realize that the maximum productive capacity of a people is measured by the carrying capacity of its instrumentalities of distribution and that the support and protection of these agencies is not by any means only, and is not by any means first, a private question. It came to be appreciated that, in order that production may be assured, in order that the comforts of life and the means of living may be brought within the reach of the masses of the people at reasonable prices and on reasonable terms, in order that the public welfare may be provided for and properly safeguarded, there must be strong, efficient and adequate agencies of transportation, that the existing standard of revenues had served to starve instead of strengthen them and must be increased, and that this was a public and not simply a private question. This conception of the relationship of transportation to the welfare of the people having been once accepted, and the real fact as to the financial condition of the carriers having come to be understood, many truths theretofore obscured became manifest.

It became apparent that the highest interest of the public was in adequate and efficient transportation, and that, as compared with this, the rates paid were only secondary and were comparatively unimportant. The public transferred its interest and anxiety from the question of the cost to the question of the existence of adequate transportation capacity.

It came to appreciate that the producer who had his capital invested in productive property must let it lie idle to the extent he could not get his products to market; that if, as had in fact occurred throughout the entire producing industries of the country, production had already taken place, the producer must face the loss of his product to the extent he could not get it moved, and that the banks which had loaned upon it must lose or must carry the loan while the marketing of the product was retarded, with the consequent congestion everywhere of banking accommodation, and consequently that the most expensive and most costly service to the public is inadequate service.

#### AIM OF NEW TRANSPORTATION LAW

As a result of these considerations, the recent legislation by Congress has been enacted into law.

It undertakes to deal with two periods, first, the period of transition back from governmental to private control and operation, and, second, the period thereafter for which a permanent system of regulation must be provided.

It has its foundation in a new and larger view of the relationship of government to the instrumentalities of transportation which it undertakes to regulate.

It recognizes:

1. That transportation is a business in which the public is vitally interested;
2. That the system of private ownership and operation, invigorated and vitalized by individual initiative and enterprise, is in the public interest to be preferred to government ownership and operation, and that it is more equitable to distribute the cost of supporting it among the persons who use it in proportion to their use, than to impose it on all the people—on those who do not use it as well as on those who do—irrespective of their use, by levying it as a universal tax and paying it out of the public treasury;
3. That the business of transportation must be treated as a business and that unless so treated it cannot survive and perform its useful and essential public purpose;
4. That the government cannot, in conscience or with due regard for the public welfare, exercise the power of regulation, which

involves the restriction of business opportunities, without at the same time accepting the responsibility of seeing that justice is done, proper encouragement and support afforded, and that the charges for transportation, while limited so as to prevent injustice to and extortion on its users, are reasonably sufficient to attract the capital needed to make and keep the facilities of transportation adequate to the public needs.

4. That, therefore, the proper financial credit of these carriers is primarily and principally a matter of public, and only in a minor degree of private, concern; for on the adequacy of such credit, the supply of transportation is, under the system of private ownership, dependent, and the system cannot be abandoned for any other without profound influence on, and grave consequences to, our chosen and established governmental institutions.

The abandonment of the old and mistaken view that the responsibility of government, when it undertakes to regulate the business of transportation, is fully performed when it punishes its misdeeds and restricts its activities and opportunities, and the adoption of the new conception that the government's responsibility in regulation must extend to and embrace proper encouragement and protection, marks a new era in our legislative history and rises to the dignity of an economic triumph of popular government. It furnishes new assurance and gives fresh courage and hope to those who believe in the good sense and the spirit of wisdom and statesmanship which reside in the masses of the people and which will ultimately manifest itself in the system of laws evolved out of public opinion.

### NEW SYSTEM MUST HAVE FAIR TRIAL

It remains now to give the new system a fair trial.

The carriers themselves must be keenly alive to their own responsibilities. Trusted to furnish transportation to the people, they must rise to the level of their enlarged opportunities and view their obligations from the standpoint of the public right and public welfare to which they bear so important a relationship. They must see to it that the best quality and the largest quantity of service in their power to give, is furnished to the country and the

public which they serve, and that no narrow or individual view of their special competitive interests be permitted to dominate or control their policies to the hurt of the rights of the public.

The public, on its part, must be patient while this effort is being made. It must realize the difficulties and embarrassments which confront the carriers in resuming the possession of their properties and the performance of their properties and the performance of their transportation duties. For more than two years they have been out of the possession and control of their properties. During this period the identity of individual properties had been merged into others; the rolling stock—engines as well as cars—had been taken from the system to which it belonged and scattered elsewhere and everywhere as an immediate need appeared to justify until not more than 21% of the cars remained on home lines; repairs on this vagrant and homeless equipment had been inadequate and without uniformity; the working forces had become imbued with the idea that they were working for the government and consequently under a different and reduced system of discipline and responsibility; the management itself had been deprived of the intimate touch with, and knowledge of, their property and its conditions essential to effective and successful administration; and the current revenues from their properties had been taken by the government and no final adjustment or accounting made, leaving their financial situation difficult and uncertain.

They came back into their duties and responsibilities of management in the aftermath of the greatest war in history.

The earth on which we stand is still trembling from the convulsions which for four years shook it to its foundations and left in devastation and ruin the continent furthest advanced in the arts and in the achievements of civilization.

#### RADICALISM RAMPANT

As one of the results of this upheaval there has come

throughout the world, including our own land, an increase of class consciousness, class rivalries and class aspirations and demands. Large bodies and groups of men are surging with impatience and resentment against the restraints of society and of law and are fiercely demanding a new and radically altered order in the economy of life.

"The equilibrium between the city and the country in the world's economics has been profoundly disturbed," the number of farm-workers, according to an eminent authority, having in two years decreased 28 per cent.

In the effort that is being made both by the public and the carriers to improve transportation, it is encouraging to know that they have the sympathetic, intelligent and able co-operation of the Commission created by Congress to administer the national system of regulation and also of many, if not of all, the Commissions of the States.

Recently the first great step was taken in the administration of the new law. It became necessary to interpret and apply its provisions in regard to the amount of revenues which should, in the public interest, be provided for the carriers as compensation for their transportation service.

For more than five weeks it was my privilege as counsel to sit before the Commission at Washington, with whom throughout the whole hearing sat three State Commissioners, and witness its patient and painstaking effort to develop the facts which should be its guide to a wise decision.

The impression I carried away from that hearing and that will abide with me always was that of a great tribunal of trained and able scientists, thoroughly informed and skilled in the economics of transportation, and inspired by a lofty and conscientious purpose to arrive at a wise and just solution of the extraordinary problem which the nation had confided to its hands. It attained an enviable degree of public confidence in the administration of the old law. The country may rest assured, I feel certain, that it will be equally faithful and efficient in grasping and administering the spirit of the new.

The act of Congress, passed to provide for this reconstruction, has entered upon its "test period."

If, under the system which it establishes, the credit of the carriers is made sufficient to enable them to furnish to the American public the needed quantity and quality of transportation, the legislation will be a success.

If, on the other hand, such credit is not established, it will be a failure. The reconstruction of transportation is, accordingly, the policy of the nation, and has begun in earnest.

Congress has now declared the policy of our people. It is, in express terms, "to foster and preserve in full vigor both rail and water transportation."

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## BEAUTY IS OF YOUR HANDS

*By* GUSTAV DAVIDSON

**B**EAUTY is of your hands: yet have I known  
Neither their warmth of clasping nor caress.  
Your candid fingers laid upon mine own  
I have not felt, nor of their gentleness.  
I only caught a music in the tone  
With which you spoke when saying "You" and "Yes"—  
(Your mouth a cercis flower, passion-blown)  
The while my pulses beat, now more, now less.

But most had I been favored when your eyes  
Made luminous the gold-brown of their smile.  
Then woke the mystery of old surmise  
And hope came breaking from some distant isle.  
But oh, your heart!—the courage in me dies  
Probing to that deep centre, mile on mile!

# THE HUMAN LEGUME

*By* LOUIS EVAN SHIPMAN

**T**HE suppression of pamphlet 232,323 issued by the Meteorological Division of the United States Department of Agriculture, the destruction of all data relating thereto, and the violent death of the brilliant investigator shortly after leaving the service of the government, is of such recent happening, that I am reluctant to drag the matter into publicity, and I shall do so only to the extent of making current the astounding conclusions which a lifetime of scientific study and experiment on the part of my friend (I do not give his name for too-obvious reasons) had verified and made authentic.

I read the pamphlet in proof at the request of the author, and while I am neither a meteorologist nor a chemist, I was entranced, as only a reader of government pamphlets could be, by finding not only that I could read it, but that I could understand it. As far as I could analyze it, the fabric of his theory was patchless, and his conclusions as inevitable as unhappiness. I felt as I read with growing wonder and elation, that mankind—or the most important part of it, that which resides in the United States—was about to have thrust upon it a discovery as revolutionary, as epoch-making as that of the truly national instrument, the megaphone. I returned the proofs, with overwhelming congratulations, and waited for the Government presses to spray them forth on a hyphenated people. But waiting served no purpose: my friend's pamphlet never appeared, and the Government presses, instead, ground out their daily millions of treatises on the evil of the boll-weevil, the value of cotton-seed hulls as a substi-

tute for Grapenuts, soil surveys of the mountains of Kentucky, and what not.

The secret of it all has never transpired; one snatch of gossip only touches the mystery. It was whispered to me in Washington (like the famous gallery of St. Paul's, a sibilous sound at one end is soon whisked to the other: quaint city of whispers) that the pamphlet took up the time of one whole cabinet meeting, and that on that memorable occasion the distinguished Secretary of State, who had not then resigned, and the distinguished Secretary of the Navy, who has not yet resigned, were so turbulent in their abuse of the document that it was unanimously decided not only to suppress it, but to destroy the accumulated data on which it rested, and to drop the offending and daring investigator from the Government rolls.

So much for the whisper. The facts spoke louder. Author soon followed pamphlet into oblivion, and it remains for me, meagerly equipped as I am, to give an outline of a theory—I am forced to call it a theory or hypothesis, as the mass of technical detail which formed the superstructure of the amazing thing has been swept away; it remains for a Baskerville or an Ellwood Hendrick to take up the clue, analyze it backward with their test-tubes (or whatever their specialized instrument may be), and triumphantly arrive at the foundation, first causes, elements or what not—an hypothesis that simply does nothing more or less than reveal mankind—the important part of it, American mankind—to himself as an open book; I might rather say newspaper: the Sunday edition.

#### PURE, UNADULTERATED NONSENSE

The pamphlet was entitled, "Nonsense: An investigation into its kinds, origin, causes, and cure." To be brief, and to discard entirely my friend's scientific terminology, he had, in the course of his meteorological investigations, discovered in the atmosphere a strange stratum, that varied in height: hanging low over certain sections, high over

others; but extending throughout or rather enveloping the whole of the United States. Under analysis, with the most rigorous tests and checks, he found it to be simply pure, unadulterated Nonsense.

Once the airy substance was identified, if anything so volatile, so imponderable, so almost completely elusive may be denominated as substance, the speculative horizon seemed boundless, and stretched away into space infinite. That he who reads may run—if he wishes to—but chiefly for those others whose interest has been flushed by the foregoing, I will explain as definitely as I can the by-paths of speculation which led my friend on to the broad macadamized highway of ascertained fact.

In these days of the weekly and monthly agricultural and horticultural magazines, devoted chiefly to the eradication of mission-furniture and the house-fly, a careful study of the advertisements contained therein has given to even the less intelligent of us a smattering of that invaluable knowledge which keeps most of us from joining the great back-to-the-land movement, of which we hear so much and see so little. With the encyclopedic information to be gleaned from the advertising columns of these journals, ranging from door-screens to ensilage cutters, the assiduous seeker will eventually come to an appreciation of the vast importance to manurance of those mysterious compounds, known generically as fertilizers; and if his inquiring mind has not been diverted by the rival claims of various potato sprays, spavin cures, and cream separators, it will come to a dim perception of the chemical fact that nitrogen is the most essential component of all manurage.

To state that this invaluable constituent is obtained chiefly from the circumambient air, is supererogatory: every little boy, and every little girl in our primary schools knows that, or will know it when they have all been properly flexnerized; but what they do not know is the process by which the magic molecules are transferred from the surrounding atmosphere—from the stratum of nitrogen, please

bear in mind—to the earth below, there to pursue their joyous task of disintegration and reincarnation.

#### THE PLANT FAMILY

It is accomplished through the provision by an all-wise Providence of a family of plants known as the legumes; familiar to all who have been bemused by the allurements of seed-catalogues as the different species of peas, beans and clovers. These, through some inscrutable affinity, drag the unsuspecting nitrogen from "ambrosial heights of possible acquist," and pass it generously to "earth's renewing beds." If you understand it, it is all as simple as Mendelism.

This seeming divagation has been necessary that the reader may more clearly grasp the subtle attributes of the legumes, and their close association with my friend's astounding discovery. He himself was a gardener of parts; his pride was the cultivation of the sweet-pea (his "Sylvia Pankhursts" have never been excelled inside or outside of a hot-house) and it was owing to his intimacy with this tender, exquisite legume, that he was enabled to apply his discovery of the aerial stratum of Nonsense.

Pondering—as have the philosophers of all ages, of all nations—over the prevalence of Nonsense in his native land, over its virulence, as one might say, in certain localities (for instance, such as Ohio, the West, and the District of Columbia), pondering deeply, it came to him like a blinding flash, one evening as with watering-pot in hand he was sprinkling his "Sylvia Pankhursts," that there must be some medium, some conductor between earth and Nonsense; his legumes, his sweet-peas, his "Sylvia Pankhursts," coaxed nitrogen from its element; what was it that attracted Nonsense? He followed the clue feverishly, immersed himself as it were in the reservoirs of Nonsense, such as the Congressional Record, the files of the daily papers, and our intellectual journals such as the N—us R—ic and the N—on. He measured, he weighed, he calculated, he an-

alyzed until he proved, beyond peradventure, the existence of what he felicitously described as The Human Legume.

#### MANKIND CLASSIFIED BOTANICALLY

Once having established the undoubted analogy between the vegetable and the more or less civilized legumes—the one secreting atmospheric nitrogen in their nodules, the other storing atmospheric Nonsense in their noddles—his further investigations, although intricate and laborious, were of a simplicity. He adopted the botanical nomenclature for the various groups into which he was able to divide his fellow citizens, thereby avoiding the necessity for any intellectual effort on the part of his readers, so confusing to us Americans. This in conjunction with an elaborate key-index permitted, nay, encouraged, the lay mind to grasp at a glance the class, group, or species to which it and its neighbor belonged. To illustrate:

Under the letter *S* were found listed poets, politicians, and persons; turning to the index one discovered that they are the human “soy-beans,” storing large quantities of Nonsense; under the letter *P* were grouped newspaper editors, popular novelists, critics and so forth; a peep at the index found them classified as the human “cow-peas.” The letter *V* showed us the socialists, anarchists, I. W. W.’s and so on. The key proclaimed them “hairy-vetches”—poor wretches!

Feminists, peace-at-any-price advocates and such like were enlisted under *C*, and were found not unexpectedly in “clover”—sweet clover. As the author’s note informs us, these secrete a mild form of Nonsense, which may, however, under cultivation, if the nodule—I mean noddle—becomes completely turned, result in the unfortunate becoming a human soy-bean.

And so the classification continued, its ramifications all-embracing, leaving no part of the heterogeneous mass known as the social group unidentified. Children, architects, theatrical managers and corporation lawyers are

highly leguminous; children may outgrow the tendency, architects and theatrical managers, and corporation lawyers never. On the other hand, soldiers, sailors, farmers, and many of the trades are immune; very little Nonsense about them. Dressmakers and barbers will be found under one of the subdivisions of *P*. And so on. The butcher, the baker, the candle-stick maker, each and every one tabulated for easy reference, docketed according to his leguminous tendency. Is it easy to conceive the loss which humanity has suffered in the suppression of this public document, which was never made public?

#### THE COUNTRY OF CAP AND BELLS

"A little nonsense now and then is relished by the wisest men." No one denies the truth of the old jingle; but "a little" has been transformed into far too much; "now and then" to all the time; and relish has disappeared entirely. What is to be done about it? The Nation droops, and withers; insidious as the hook worm disease, or pellagra, and far more dangerous, nonsense stalks the country—if I may use the figure for anything so impalpable, so all-pervading. In a century's time unless we re-discover my friend's lost formula for prevention and cure, we shall have become a race of cretins.

I would suggest an Interstate Nonsense Commission (besides the others already existing), with plenary powers. It might save us from going down in history as the country of cap and bells, the fool's paradise.

# NIPPON'S LYRIC DRAMA

By LUCY FLETCHER BROWN

**T**HERE are in Japan today two types of theatrical representation; one, corresponding to our own popular drama, with realistic stage-setting, little music and no masks; the other suggestive of the mediæval miracle plays, or, in its finest phases, of the Greek drama. The first or popular type dates from some three hundred years ago in Yedo—the modern Tokio—and is associated with the development of the Ukie-ye or color-print period, indeed many of the print-makers drew their subjects from the plays and actors of the day.

The other class of plays have their beginnings very far back in the history of Old Japan; in the god-dances of the Shinto temples, in the music of wandering minstrels, and in playlets employed by the Buddhist priests to aid in temple festivities. All these elements, after slow years of growth and change, developed, in the early 15th century, the lyric drama which we call "Noh." The plays, more or less sacred in character, and largely written by Buddhist priests were based on incidents of mythology or ancient history. They were often of a supernatural character, and "a dance" usually by the hero of the play is an important element.

The Noh was originally given before the Emperor in Kioto, for a thousand years the capital of Japan, and owing to the aristocratic seclusion in which the court held itself, the populace was not admitted to the performances. A stage was built in the wide dry bed of the river Kamo, which divides the ancient city, and boxes for royalty and the nobles were erected facing the stage on three sides. During some recent months spent there I was haunted by

imaginings of that naive yet classic art in the strange setting of the river-bed, and many a warm misty twilight I hung over the railing of the long bridges that span the gravelly stretches and, dreaming of the past glories of the old capital, tried to re-create the sacred plays that long ago had been enacted in the wide white spaces beneath me. The same leisurely chattering crowds, the same clatter of wooden clogs on the resonant ways, in many respects the same temper and tradition of three hundred years ago were there, but the royal isolation of a great art had vanished and Kioto holds today not only popular theaters and movies but Noh plays to which the price of admission is the only condition for entrance.

But it is also true that a great and esoteric art will ever create its own flaming circle about itself, and the Noh theaters of today are maintained by groups of intellectuals through whose devotion the sacred formulæ of costume, speech and pose are handed down unchanged through generations of upheavals. The Noh stage, peculiar in construction, is never used except for the sacred plays, and, indeed, often occupies an important place in the great temples like the Nishi Hongwanji, in Kioto, or the lovely Myajima where high-tide floods around the foundations of the temple and the background of the stage is the opal sea.

#### A WORK OF SACRED DEVOTION

The manager of the company of Noh dances in Kioto today is Mr. Kongo, a scholar and an artist, to whom the perfect presentation of these dramas is a work of sacred devotion. On the 19th of September the first performance of the season was to take place, and to my very great pleasure I was invited to attend the opening with my friend, Mr. Keiju Imai, the foremost of Kioto's younger artists, who is almost as deeply interested in the beauties of the Noh as in his legitimate field of the graphic arts.

A Noh performance is in reality a set of plays, or, as Mr. Fenellosa calls it, "a service of life." These may be

varied somewhat, but according to the strict interpretation of the "Book of Noh" there will be first a "Shugen" or congratulatory piece in praise of the gods; second a "Shura" or battle piece; third the "Kazura" or wig-piece (pieces for females); fourth the "Noh of Spirits" ("just after the middle of the program when some of the audience will be a little tired . . . to wake them up"); fifth, one bearing on the moral duties of man and lastly another "Shugen" to show that "though the spring may pass there is a time for its return."

The initial performance of Mr. Kongo's company gave us two Noh plays in the forenoon and two more in the afternoon with a short intervening farce between each pair, much as "vaudeville" served to lighten the progress of the early Italian opera. The opening hour was set at nine and I reached the theatre after a hurried trip into the city from Nanzenji temple; an ancient Zen foundation among the eastern hills where I was living. Nothing in Japan happens on time, so I was not surprised to learn that after all the play was not to begin until ten and then, after waiting until a quarter of, to find on going in that it was well under way; and every one with the vaguest possible notion as to when it had begun.

Mr. Kongo's company was appearing in the manager's own private theater, the entrance of which presented the neutral aspect of the ordinary Japanese house except for the rows of clogs and sandals neatly ranged in front of the entrance.

Taking off my shoes I followed my companion, stocking-footed, through a maze of narrow ways, past dressing-rooms where strange figures were seated, propped in stiff magnificence while attendants adjusted wigs and masks or made up the immobile face. We went up a short flight of steps, my friend opened a door and behold, we were in a box looking upon the stage left and I became for a moment the focus of interest as the only foreigner in the room and with a chair to sit upon at that! The floor was divided

into squares like a checker-board, the partitions being conveniently low for stepping over; and as each party entered from the aisles the attendant placed on the floor the tray holding the inevitable teapot. Around the circumference ran two rows of boxes similar to the one we occupied. The audience was in the reserved neutrality of tone that characterizes the well-bred Japanese, many with books of the play, many with young people who were evidently being "taken" much as we include ours at the Young Peoples' Symphonies, and all expressing that complete bodily and mental "ease" that makes their companionship a thing of delight to us complexed Occidentals.

#### COMPELLING EMOTION OF THE PLAY

The theatre was as simple and unadorned as a packing-box but as restful as twilight, and there was nothing whatever to distract the mind from the compelling emotion of the play, for each Noh represents the sublimation of some passionate grief, longing or pain; some intense spiritual experience about which the human facts of life grow wan and attenuated. "Nishikigi," the story of the ghost-lovers united after a hundred years by their grave on the hillside; "Sotoba Komachi," the wail of the poet-wraith; "Kinuta" (The Silk-Board) the tale of abandoned love:

"The love of a god with a goddess  
Is but for one night in passing,  
So thin are the summer clothes!  
The river waves of the sky  
Have cut through our time like shears,  
They have kept us apart with dew."

The stage was as bare as Elizabethan boards, save for three little pine trees signifying heaven, earth and man; the back drop, which is invariable in form, was a great gnarled pine, symbol of everlasting strength; an open passage-way led diagonally back to the dressing-room, and through this passage, in full sight of the audience, advanced each actor with the characteristic Noh step, placing,

with exceeding deliberation, one white-sock clad foot exactly in front of the other so that heel and toe touched. In the rear sat the musicians, flutes and drums, who in addition to the legitimate use of their instruments kept up an extraordinary vocal accompaniment to the action of the piece, an amazing two-part booming and yowling which seemed at once enlightening as to their name in the vernacular of "cats." A chorus varying from five to eight in number sat in a row on the left and carried a recitative very similar to that of the Greek. Sometimes the quality of their chant was extraordinarily beautiful and then again drifted into that musical limbo where it is impossible for Western ears to follow.

The Noh costumes are of great magnificence, stiff brocades of very ancient cut, long trailing trousers ("of the Kamakura period," my companion whispered during one scene where I was disturbed at the sight of priceless textiles swept about at the heels of oblivious princes), somber outer garments revealing, in the measures of the dance, undergowns of brilliant colors and gorgeous pattern, and all of them expressing a certain static quality, partaking of their wearers' detached and statuesque bearing.

#### JAPAN'S ILIAD

The play was "Atsumori," an incident of the heroic tales of Japan's great past, and full of pathos. The little foundling son of a great warrior, brought up in a temple, prays devoutly an allotted number of days that he may see the image of his dead father "even in a dream." A boy actor of gentle countenance and sweet piercing childish voice took the part, and drew my heart out with his plaint. In the center of the stage was a straw hut shut about with curtains, which were slowly withdrawn, revealing the magnificent figure of the young warrior, Atsumori. As he stepped out, an attendant deftly withdrew the "hut," which was no larger than a palanquin, and the stage was left free for the dance which forms so important a part of every play.

Atsumori tells the boy that he has only half an hour's respite from the other world and when the child tries to embrace him, cries "Flower child of mine, left behind in the world like a favorite carnation, how pitiful to see you in those old black sleeves!" Here the chorus chanted in poignant rhythm the story of the warrior-spirit while Atsumori danced the dance of war and death, and finally withdrew from the stage leaving the weeping boy.

At the close of the subsequent farce Imai San motioned me to follow him, which I obediently did into the dressing room of the artist-manager. Mr. Kongo was seated in Oriental fashion, his silken robes of dun and silver sweeping about him on the polished floor; a man of more than ordinary height and a serene intellectual countenance. I countered his profound bows with what grace I could muster and sat down opposite him with that mortifying conviction of *gaucherie* that I think every Westerner feels in the presence of the poised perfection of the Orient. An interpreter exchanged our compliments, and after drinking a microscopic cup of pale green tea, Mr. Kongo graciously inquired into the possible interest of the American public in the Noh plays. It was his ambition, he said, to take his company, one of the finest in Japan, to Paris, and thence to New York in the near future. I assured him that we, too, cherished a group of art-lovers to whom his interpretation of the dances would be a matter of the keenest interest, instancing the highly successful representations already given at the Neighborhood Playhouse in New York under the direction of Misha Ito, and in September last by the MacDowell Association at Denver, Colorado, who presented the Noh drama of Sunibagawa for the benefit of the Peterborough, New Hampshire, MacDowell memorial. The actors, although American, left their audience under a spell of wonder at the simple dignity and beauty of the drama.

At the close of our talk Mr. Kongo presented me with two pieces of scarlet and gold brocade material that

had been used in costuming, and also a delightful little nest of delicate cups; decorated by his own hand, and I went back to my place in the theatre filled with a profound sense of the beauty and dignity of art.

All day, a day of swift hours, we watched the perfect unfolding of each brief play, every pose, every motion, every costume consecrated by ancient usage. Every wig and mask is significant, and an infinity of detail that escapes the outer barbarian is of essential importance to the initiate; for instance, the pose for looking at the moon or at the dawn or at the double reflection of the moon (quite a different thng!) is absolutely prescribed, and the dance of the chief actor which forms the climax of the play is rather a series of statuesque interpretations of very great beauty and solemnity.

When we left the theatre in the late afternoon and stepped out into the soft air I did not experience that sensation of a jolting drop back into the everyday, but kept in my soul a high sense of exaltation, of conviction of the permanence of beauty and the reality of the things of the spirit. The essential quality of Old Japan still lives, and it is for us if we will but receive it without prejudice and without reserve.

# A SHELF OF NEW BOOKS

By GABRIEL YORKE

**T**HE Continuity of History is a thing too oft forgotten by those whose business it is to keep it in mind. Invariably the results are disastrous. It was forgotten by the majority of those who sat at Versailles; it is being forgotten by those who rule in Petrograd.

Every time that a writer of "vertical" history produces a work he bears out Voltaire in his statement that the science is "a lie agreed upon." For these writers nothing could have been more convenient than the holding of the Peace Conference at Versailles just one hundred and four years after the Congress of Vienna. For their benefit the Fates clipped off a unit of history of almost an even hundred years. And if, in A. D. 2020, the accepted text-books on history are of this school, an unfortunate generation will go through life with the impression that on the morning of June 29, 1919, the reader, along with all his contemporaries, had said to himself on arising: "Yesterday settled it. Today begins a new epoch. I must remember that—and act accordingly."

It is because most of the living generation was brought up on "vertical" history that we are now in the welter of peace instead of enjoying the peace itself. In the minds of too many, particularly those who believe that the world's affairs can be righted within a lifetime by the signing of a document, there exist similar impressions about the limiting dates of the artificial layers of history through which the conventional historian habitually cuts. They believe that we are now adding a new layer to those which are supposed to have begun with the Fall of Rome, the birth of Petrarch, and the meeting of the Estates General in 1789.

Fortunately some of the leaders of the day are realizing that there is such a thing as the continuity of history. Hence the recent appearance of a new kind of book—a kind which has for its aim the bridging over and connecting up of what was going on before the war with what we are experiencing now. Of this kind Bernard M. Baruch's "The Making of the Reparation and Economic Sections of the Treaty" (Harpers) is one: John Spargo's "Greatest Failure in All History" (Harpers) is another: in direct contrast to these is George Lansbury's "What I Saw in Russia" (Boni & Liveright).

It is not with the intention of having it understood that the first two of these authors had as a common, underlying theme the hold of the past on the present; but it is intended in this article to point out that the two greatest problems of the day—the Peace Treaty and Bolshevik control in Russia—are the creatures of the type of mind that not only thinks of the past in terms of epochs but which believes that new epochs can be created.

Consciously or unconsciously mindful that man's habits change with the season but that his institutions change only with the speed of glaciers. Mr. Baruch has this to say of the Treaty of Versailles: "It is a fundamental mistake to assume that the Treaty ends where it really begins: The signing of the document on June 28, 1919, did not complete its history; it really began it." These are the words of one who as senior member of the American delegation to the Commission on Reparation and as sole American on the Economic Drafting Committee had no small part in the making of that Treaty.

Quoting one of Lenin's addresses delivered in January, 1918, Mr. Spargo shows the Russian promising that *only a few months* would be necessary for him to overturn completely the whole work of ten centuries so that his country, and a little later all other countries, could start with a new order of things. The whole of Mr. Spargo's book is an amassing of evidence which shows that in attempting to

thus start a new epoch the Bolsheviki have retroacted, have produced a tyranny which has the same fundamentals but more horrible effects than that of the Czar, and, what is most important, they cannot excuse themselves by claiming that they are working under principles which they consider only temporary. "Lenin and his associates," says Mr. Spargo in commenting on the failure of factories under Soviet control, "had been brought face to face with a condition which many Marxian Socialist writers had foreseen was likely to exist. . . . namely, a dangerous decline of production, and of the average productivity of the workers, instead of the enormous increase which must be obtained before any of the promises of Socialism could be redeemed."

Those who open Mr. Baruch's volume with the idea that they are going to have peeps at what went on behind the scenes at Versailles will quickly learn that the author did not set out to provide entertainment; but that he gives his reader something to think about. In spite of the important parts which he played at Versailles he does not use the personal pronoun once with reference to his labors.

The value of his effort is greater than that which his publishers claim for it. They would commend it to us because he is the first to give the story of America's part in making the Treaty sections mentioned in its title; also for the reason that he answers the all-important question for this country: Were America's interests protected at the Peace Conference?

If Mr. Baruch had done only these two things he could but be given applause on the first claim for having scored a "beat" between two board covers instead of in the morning's newspaper. The second claim is not only insufficient but incorrect. Better than answering the question he leaves the reader to find it after first presenting evidence.

The real merit of the book lies in the clarification it gives on points which otherwise would be puzzling to all students of the Treaty. One of the most sharply defined

problems arising from the making of the Reparation Sections of the Treaty is that of whether a fixed or an indefinite sum is to be demanded of Germany. This question has found England and France so positively opposed on it that it has almost disrupted their *entente*. At the present writing they have postponed the final struggle by the compromise of having a sum fixed tentatively by their respective delegates on the Reparations Commission and their decision to be reviewed by the meeting of Premiers at Geneva. How did this question arise and why was it not settled at Versailles?

Mr. Baruch's explanation is valuable because it authoritatively recounts just what was done by himself and his colleagues before their decision was committed to paper. He says; "There was a wide divergence among the Allied experts as to what Germany could pay. The amounts discussed varied from \$8,000,000,000 to \$120,000,000,000, both extremes, singularly, being of English origin." A second obstacle was the fact that among all the delegations only that headed by Mr. Baruch had prepared estimates not only of the damage suffered by the United States but by the other nations as well. The refusal of the Allies to submit evidence of their own concerning damages or to accept the American evidence was, he informs us, "one of the most compelling reasons leading to the postponement of fixing the amount of the German indemnity to a time when the amount of damage could be more scientifically estimated."

The foregoing is an example of but one of the services which the author renders. Very naturally his book falls into two parts just as did his work at the Conference. It must be noted that with regard to reparation Mr. Baruch and the other American members of the Commission adhered to American traditions on such matters. For ourselves we claimed nothing material. The same spirit was present which paid conquered Spain for the public works

in the Philippines and which turned back to China the greater part of the Boxer Indemnity.

It was in settling the Economic Sections of the Treaty that the American delegate did his most efficient work. The result will be that though the people of this country have turned down that specific part of the Treaty dealing with the League of Nations, they will find on close examination that the Economic Sections protect American interests to the fullest extent. Rights, properties, debts, commercial relations and former treaties were matters which were very carefully threshed out, particularly by the American delegate, since, as he says, "Part X of the Treaty, designated Economic Clauses, comprises provisions in which the United States has a more direct and permanent interest than in any others, aside from the Covenant of the League of Nations."

It has been denied above that Mr. Baruch's volume answers the question as to whether American interests were properly protected at the Conference. A perusal will show that he puts forward neither argument nor answer for that question. He has given precise arrangement to a mass of authoritative material and has supplemented this by the incorporation in their entirety of the Reparation and Economic Clauses as they stand in the final draft of the Treaty. The reader thereby gets all the evidence necessary for drawing his own conclusions. The product is a volume which must have its place on the shelves of every man who desires to talk with intelligence either in condemnation or in praise of the pact.

Were the United States to become a party to the Treaty on the morrow it would, nevertheless, continue to find itself at war with Germany. We would cease to be at war with her in a technical sense, but we should still have as our enemy a product of hers which calls itself the Government of Russia. As John Spargo shows in his book, the anti-statism of the doctrines of Lenin is of German origin. It is to Engels that Lenin is indebted—the German Engels.

When an author selects such a title as, "The Greatest Failure in All History," he must be prepared with a strongly fortified argument for the challenge he issues. In this instance the author was well aware of this and we find him facing his task squarely. In selecting his evidence he has drawn on official or authorized statements of well-known Bolsheviki, official reports of the Soviet Government and its officials, formal documents of that Government, statements by well-known Russian Socialists and trades-unionists (where there was confirmatory evidence) and testimony of well-known Socialists of other countries upon matters where they had personal knowledge and where, again, there was confirmatory evidence. He admits nothing which would be rejected in a court of law. No legal brief could be more skillfully drawn: no such arraignment of a political régime has heretofore been written. Withal, there are no rhetorical flourishes. "*The evidence in in: let the jury render its verdict.*" These are the closing words of the volume.

If ever there were a treatise on the danger of forgetting that man can never shake himself entirely free of his past this work is it. But its real claim to being a book worth while is the indictment of Bolshevism, referred to above, and the art with which it is done. If the author were not himself an ardent Socialist it would be open to the criticism of being the work of a partial opponent of radicalism. As it is, Mr. Spargo has produced what he himself calls "a terrible book"—terrible for what it reveals.

And yet, when one reads "What I Saw in Russia," by George Lansbury, one wonders whether the writing of the Spargo book were worth the pains. Of what avail are logic, carefully selected evidence, the conviction of the indicted out of their own mouths, the calm and dispassionate putting forth of facts, against the type of mind which defends Bolshevism not by pointing out the goods it has worked but by taking the "holier than thou" attitude toward other governments, which condemns the Red Cross for its neglect

of Russian civilians while ignoring the Soviets' duplicity in first asking that organization for supplies and then seizing and sending them to its battalions of Chinese, or which can defend in the name of Democracy the suppression of all but pro-Bolshevist newspapers in Russia while railing against a Government which tolerates the publishing of the London *Daily Herald* with Bolshevist subsidies?

Mr. Lansbury's book, which is the result of a nine weeks' visit to Russia, recalls Artemus Ward's scholarly lecture on "Forty-five Minutes in Africa."

# THE EDITORIAL TABLE

## First Aid for the President-Elect

**T**HE country will pay less rather than more the usual attention to cabinet making in the next few months, and it will be inclined to give the President-elect a free hand and disinclined to criticise him as long as he goes about his job in the simple, unaffected and sincere way that has marked his course in his campaign. In truth the country is tired of the bell-ringers, and perhaps the enormous majority was in a part a recognition of the fact that the next incumbent of the White House was inclined to give the country an opportunity to rest its tired nerves. It is not easy to recognize vision in those who see the obvious, though it takes courage sometimes to proclaim what will be hailed as commonplace. No man was more frequently accused of preaching the obvious than was Roosevelt. He frequently admitted that his preachment was simply the plainest truth, but he insisted that it was just this that was needed.

But if the country at large does not take a strong position as to the cabinet making, the Opposition Press will—and it should. The Democratic editor has particularly strong qualifications for selecting a successful cabinet. During the past eight years he has had opportunities for exercising his talents in this direction, and his knowledge gained in two Presidential terms of close contact with his party chief, together with the sharpening of the political wits as a result of the various debates with the President over proposed and discussed changes in the cabinet—all this will tend to make the advice of the Democratic editors worth while.

We cannot imagine, for instance, that President-elect Harding could find a better or more experienced adviser in his cabinet making than the judicial and fearless New

*York World*, which so vigorously denounced the President for inadvisable appointments that he was obliged to make six changes in his cabinet, or was it four?

For ourselves we purpose to be calm over the cabinet and other appointments, even if Hiram Johnson is sent as our representative to Japan and William Randolph Hearst is rewarded for his services with the ambassadorship to Great Britain. As it is we are much pleased with the selection for the Treasury portfolio, which seems to be settled.

We may get a little nervous now and then over the Secretaryship of State, for, along with 10,000,000 other Americans, we know exactly what the President-elect should do with that portfolio. Nevertheless we are going to refrain from giving Senator Harding, or even to his secretary Mr. Christian, out of our reserve of information on this point. They will not be able to drag from us even a suggestion as to what should be done. Calm in the belief that destiny will guide him, we offer but one prayer, and that is that it will be a cabinet, based on ability, rather than popularity. The country will excuse lack of the latter—it is sadly in need of the former.

### Washington's Investigations

Some very painful investigations into the labyrinth of profiteering were begun before election by the Administration at Washington. Some have died a-borning, for lack of appropriations; and some have led into embarrassing citadels. Certain "Senate Documents" aflame with rich ore, redolent of scandal, are not accessible, and in the locked and barred archives of Washington there are moulding records that would feed the press for months. Whether the "dirty linen" of the war profiteers should be put out to dry in public view, or not, remains to be seen. Some of these investigations have cost the nation's treasury millions of dollars. In view of the wide publicity and attempted political significance that have been given to a number of Federal investigations, the public may well ask; Why play favorites? Why not set truth above all and let

us peed into the devious complexities of those investigations not revealed no matter whose heads shall fall—and there are some pretty large—even swollen—heads, that might suffer spasms of contraction were all the facts known relating and appertaining to their war work.

It may be that no good would be accomplished by opening the books, for as far as the public is concerned the only good that could actually react is through restitution due to overcharge and wastage. It would be like catching quicksilver in a sieve to recall most of expenditures from the widely diversified distribution of favored contracts, though in the sunlight of revelation a number of “higher ups” in politics and finance would be revealed in activities that the jury of public opinion might not pass upon favorably.

When the war is over, perhaps the people will demand an accounting. If this is to be; if the press is to translate “whispers” into words, the Administration at Washington yet has a few months left to edify the public as to its expensive adventures now held in sealed reports, presumably made for the public good.

### Checking the College Professor

A discussion surprisingly serious has arisen about the necessity of imposing some restraints on college professors in public affairs. The natural restraints that thoughtful men impose on themselves having vanished here, as in other quarters, those fields become most attractive for which the new entrants are least suited. Assurance triumphs over specialization, in the business world as well as in the college, and so we have that persistent citizen, Henry Ford, with no knowledge of history and an almost cretinous idea of philosophy, projecting himself in the foreground of political and philosophic discussion.

The writer recently addressed the faculty club of a large university in the East, and, in the discussion that followed, a professor of history cited four dates and they were

all wrong, while the professor of mathematics spent ten earnest moments in proving that six equalled one.

### Maggie Asquith's Vulgar Book

Unlike Beerbohm Tree's *Hamlet* one cannot say of Maggie Asquith's autobiography that it is funny without being vulgar. Despite brains and talent there was a broad streak of vulgarity in Mrs. Asquith as there was in her namesake, Maggie Valois.

There is much that is interesting in Mrs. Asquith's book, some that is valuable, but the discussion about her pains at childbirth, together with other similar idiosyncrasies, shows that she was a dangerous person to know, even for her husband.

### Our Farcical Laws

What significance lies in the fact that we have so many unenforceable laws on our statute books? How comes it that minorities are able to get laws enacted that nobody will obey? Is it a part of the political struggle, or are we weak-willed and vacillating, seldom knowing our own minds?

Whatever the reason it puts American police departments under a serious disadvantage; and it is a source of perpetual astonishment to Europeans the willingness with which we try to regulate by law the personal habits of citizens.

How this regulation is working out is the subject of a book on "American Police Systems," by Raymond B. Fosdick. He found demoralization in all the cities he visited, he declares, as a result of attempts to enforce offensive laws. In New Orleans the chief of police told him: "I am always between two fires. If I should enforce the law against selling tobacco on Sunday, I would be run out of office in twenty-four hours. But I am in constant danger of being run out of office because I don't enforce it."

Green curtains concealed the tobacco stands, serving the double purpose of advertising their location and of protecting the citizens from visions of evil! This sort of hypocrisy one finds everywhere. Most chief of police con-

fess frankly that in these cases they do not act except upon specific complaint. "And then we have to act," said one chief, "but of course nothing ever comes of it because judges and juries will not convict." Said a criminal court judge in Kentucky: "On ample evidence furnished by a Church Federation I placed several cases of Sunday violations before the Grand Juries of 1915. Not a single indictment was returned. It is my experience that prosecutors, judges and juries will not convict people of crime for doing things that are the community habit and practice."

In Alabama a statute forbids the playing of tennis and golf on Sunday. Recently in Baltimore the police suddenly descended in a series of raids to arrest all violators of the Sunday law. One hundred and thirteen people were taken into custody in one day and 223 summonses were served. Those arrested included druggists, drivers of ice cream trucks, barbers and bakery-shop keepers. Two men were arrested for balancing their books in their own homes. Selling a child a stick of candy constituted a heinous offense, and the buying of a piece of chewing gum or a loaf of bread caused the arrest of a shop-keeper. One man was arrested for painting his gate. Policemen did not hesitate to approach a man who happened to be smoking a cigar and question him as to how he came by it. If satisfactory answers were not forthcoming the man was arrested. Efforts were made to persuade the police to allow a few men to continue working in a garage on the ground that a hundred motor trucks were stored there would freeze if not attended to. The police, however, refused, and two arrests were made.

"This satire upon religious observance," commented the *Baltimore American*, "bore no fruit of holiness, but on the contrary fermented bitter feeling and vindictiveness. The public was strained almost to the verge of physical violence."

Equally ludicrous results followed in Massachusetts, where golf-playing on Sunday is illegal, and where a cer-

tain golf course lies partly in one township and partly in another. The authorities in one jurisdiction enforce the law: the authorities in the other do not. Consequently on Sunday the members are limited to play the holes in the "liberal" township. In Tennessee the law against the sale of cigarettes is enforced in Nashville and disregarded in Memphis.

In New Orleans a policeman was stationed every evening in each of fourteen cabarets where liquor was sold. These officers were on duty from 8 p. m. to 4 a. m., except on Saturday nights, when they were withdrawn at midnight for the reason that their presence in the cabarets after midnight "Might seem to countenance the violation of the Sunday liquor law!"

### **Laws Against Kissing and Rouge**

Often the laws are such as to defy enforcement even if they had behind them a substantial body of public opinion, declares Mr. Fosdick—thus there are laws against kissing, laws against face powder and rouge, laws against earrings, laws regulating the length of women's skirts, laws fixing the size of hatpins. In Massachusetts one may not play cards for stakes even with friends in the privacy of one's home. In Texas card-playing on trains is illegal. One would have to scan the ordinances published by the Police President of Berlin to find any parallel to the arbitrary regulations in regard to private conduct with which American citizens are surrounded.

The argument of those who hold the police responsible for our lax observance of these sumptuary laws marches with a stately tread. "The police," they say, "are sworn to enforce all laws. It is not for them to use discretion in determining what laws shall be enforced and what shall not be." This argument fails to take account of the practical situation in which the police find themselves. It is estimated that there are on the average something like 16,000 statutes—Federal, State and local—applicable to a

given city. To enforce all of them, absolutely, all the time, is of course to any mind but that of the theorist and doctrinaire utterly impossible.

### Expert Opinion

Mr. Brand Whitlock defines the situation with admirable clearness:

"When the act which violates the law is merely *malum prohibitum* and would not be wrong in itself, when large numbers of the people, or a majority of the people wish to commit that act or have no objection to others committing it—such an act, for instance, as playing ball, going to a theatre, trimming a window, running a train or having ice cream delivered for the Sunday dinner—then it becomes impossible to enforce the law without resorting to violence, namely, by rushing policemen here and there in patrol wagons, and forcibly carrying away men and women to police stations, courts and prisons, and when they are out, doing the same thing over again."

Summing up, Mr. Fosdick writes:

"Meanwhile our police are caught in an embarrassing dilemma, and there is little hope of a sound and healthy basis of police work until our law-making bodies face the fact that men cannot be made good by force. The attempt to coerce men to render unto Caesar the things that are God's must always end in failure. The law cannot take the place of the home, the school, the church and other influences by which moral ends are achieved. It cannot be made to assume the whole burden of social control. Permanent advance in human society will not be brought about by night sticks and patrol wagons, but by the cultivation, in neighborliness and sympathy, of a public opinion which will reflect its soundness in the laws it enacts and in the approval it gives to their enforcement."

### Should Liberty Bonds Be Tax Free

I do not see how Congress could be induced to enact any legislation making all Liberty Bonds tax free," writes

Thomas W. Lamont, "even if such a course were desirable. At the present time, also, there seems no reason to believe that the Government will have to float another long term loan, as the Secretary of the Treasury has publicly stated that he believes that current revenue will take care of the existing floating indebtedness. While the Government has the option to redeem approximately \$4,533,000 of bonds in 1922, there is no definite maturity until 1923 when the Government will have to provide for approximately \$4,459,000 of bonds than maturing. It may be that at that time the question of tax exemption will again be a question of leading national interest."

### **Explosives Legislation Must Be Enforced**

The recent terrible explosion in New York's financial center in which thirty-eight persons perished, may or may not have been an accident. In any event it rivets attention to the Transportation of Explosives Act which became effective January 1, 1920, and the Table wonders how loosely its prescribed regulations are being enforced.

This phase of our regulatory jurisdiction is, from the popular standpoint, probably one of the most interesting in that it vitally concerns the life and limb, as well as the general health, of a great majority of our millions of people. It is interesting to note in connection with these regulations that during the past several years, and more especially during the period of the war, the necessity for the transportation of large amounts of explosives and a great variety of heretofore unknown dangerous articles has come forward. Poisonous gases and liquids, inflammable liquids and solids, corrosive liquids, inflammable gases and other dangerous articles are now used commercially to a much greater extent than before the war, and it is obvious that the importance of appropriate precautions to insure the safe transportation of those articles from the standpoint of the carrier and its employees, the shipper, passenger and general public can hardly be overestimated.

Probably in no other field of human endeavor is the importance of reasonable safety measures so apparent and pronounced as in this field of explosives and dangerous article transportation. During the year 1918 more than 2,000,000,000 pounds of military explosives were produced and transported in the United States, and in addition to this the normal production of explosives for commercial use amounted to approximately 600,000,000 pounds. It is estimated that at all times during the year 1918 there were on the tracks of railroads in the United States not less than 55,000 carloads of explosives of an average weight of 40,000 pounds each. Notwithstanding the tremendous volume of this extremely hazardous traffic we accomplished the remarkable feat of transporting all these explosives without the loss of a single life in the United States, with only four persons injured and with property damage amounting to only about \$33,000.

This applies, of course, to explosives only, as contradistinguished from dangerous articles other than explosives, in the latter group of which is included such articles as inflammable gases, inflammable liquids, poisonous gases, including phosgene, mustard gas, chlorpicrin, hydrocyanic or prussic acid, and many other articles. In the transportation of dangerous articles other than explosives a large number of accidents occurred, resulting in seventeen persons killed, ninety-nine persons injured and a known property loss of approximately \$1,500,000. Without attempting to express any personal convictions with respect to the sharp contrast between the remarkable success in transporting dangerous articles other than explosives, it is interesting to observe that the transportation of explosives act, which applies to explosives, imposes severe penalties for violation of regulations applicable to the transportation of those articles, whereas the penalty for failure to observe the dangerous article regulations, if indeed there is any penalty, is rather an evanescent one.

### The Most Toxic Poisonous Gas

As illustrative of the dangerous character of articles other than explosives, reference may be had to the chemical analysis and effects of the poisonous gas commonly referred to as phosgene or carbonyl chloride,  $\text{COCl}_2$ . Phosgene is a gaseous liquid produced by passing a mixture of chlorine and carbon monoxide over heated carbon, which may or may not be activated by salts or other materials. It has only recently become of considerable industrial importance. In its pure state it is a colorless and odorless liquid of highly suffocating and poisonous qualities. The dangerous element of phosgene is found in its extreme toxicity. The insidious nature of the gas and the subtle deadliness of its attack upon animal tissue have been clearly manifested by laboratory tests and in military operations abroad. With the single exception of mustard gas, it is probably the most toxic of any known poisonous gas. One part in a million is probably the maximum safe concentration. One part in forty thousand is sufficient to cause the death of an adult within thirty minutes, and during the whole of that time the victim, unfamiliar with the characteristics of the gas, may be wholly unaware of the deadly process of destruction!